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THE CATHOLIC UNIVERSITY OF AMERICA
STUDIES IN AMERICAN CHURCH HISTORY

VOL. II.

THOMAS CORNWALEYS
COMMISSIONER AND COUNSELLOR
OF MARYLAND

BY

GEORGE BONIFACE STRATEMEIER
OF THE ORDER OF PREACHERS

A DISSERTATION

SUBMITTED TO THE FACULTY OF PHILOSOPHY OF THE CATHOLIC UNIVERSITY OF AMERICA IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF DOCTOR OF PHILOSOPHY

WASHINGTON, D. C.
1922

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FOREWORD

American Catholic history is as old as the history of the New World. From the very first, Catholics were among the discoverers, explorers and settlers. The record of Catholic achievement is not sufficiently known. The deeds of many heroic children of the Church, both lay and clerical, have not been treasured up in the records as they deserve.

Happily, of late years serious endeavors have been made on the part of Catholics to remedy this state of affairs. About two score years ago, there was established in Philadelphia a society having for its object the cultivation of historical research. The initiative of these scholars encouraged others in various parts of the United States to undertake similar work, some limiting their endeavors to their respective localities; while others looked further and considered the Church's history in all parts of America.

Today the greatest asset for promoting interest in the study of American Catholic history is the American Catholic Historical Association. The *Catholic Historical Review* brings to the attention of scholars historical desiderata, archival materials and aids in the diffusion of historical knowledge in general.

The future without presumption may be said to promise even greater things. The American Church History Seminar, under the efficient guidance of Doctor Peter Guilday, at the Catholic University, is seeking to train scholars who hope to contribute their share toward the furtherance of historical study and research. The writer of this dissertation has experienced the benefits accruing from several years' work with Doctor Guilday.

A few years hence will occur the tercentenary of the arrival of the Maryland colonists. Since this event means so much to religious liberty, of which Catholics are the founders, it is most fitting that a more thorough knowledge of the early history of Maryland, "the Land of Sanctuary," should be provided for Catholics throughout the land.

Thomas Cornwaleys was one of the leading figures in this enterprise. As that event draws near, it is hoped that George, Cecilius and Leonard Calvert, together with Cornwaleys and Hawley and other leading men of early Maryland, shall live again on the pages of our historical publications.

The writer wishes to acknowledge his great indebtedness to Doctor Guilday, under whose guidance this dissertation was written. To Doctors P. W. Browne, Stock, and Purcell, he owes a debt of gratitude for many valuable suggestions, but even greater is his indebtedness to his esteemed confrère, the Very Rev. V. F. O'Daniel for much help in bringing this work to completion. A word of appreciation is also due to Miss McShane of the library of the Catholic University. Finally his thanks are due to all who have in any way given him assistance.

CHAPTER I

INTRODUCTION

From the day that Henry VIII broke away from the Catholic Church and set up a religion to suit his liking, the adherents of the ancient religion had to reckon with persecution. Loss of property, banishment and death were the lot of those who remained loyal to the faith of their fathers. In the first days of the Church, the Christians had to seek localities unknown to mankind at large where they might serve God unmolested. In fact in every place that persecution raged the same plan had to be adopted. So also in England, when the time of trial came for every true believer, Catholics had to worship God in secret as the Christians of old.

When the time of trial lengthened and persecution wore on without prospect of relief, other means were adopted. Men of property saw their fortunes dwindle away under the stern exactions of penal laws. When the fury of the persecutors abated somewhat, legal restrictions were still placed upon them. Their rights of citizenship were curtailed. In fact, many hardships continued for years even though several rulers arose who were somewhat more lenient. To escape these difficulties, to regain their lost rights, to stand on an equal footing with their fellow-men in the social and political order, Catholics, as well as the proscribed of other religions, decided upon self-imposed banishment, first to the continent of Europe and then to a home beyond the seas.

The foundation of Maryland was an outcome of this movement. Its founders, Calvert and his associates, decided to leave their homes in their native land to found in the land of America an asylum for the persecuted of all creeds. Among the first colonists of this "Land of Sanctuary," the name of Thomas Cornwaleys stands out prominently. Resolving to sacrifice his fortune and his all if need be, he decided to cast his lot with the colonial venture to achieve the boon of freely worshipping his God. A lover of liberty and an enemy

of proscription, he decided to traverse the ocean to secure that which at home he was unable to obtain.

In sending out his colony into the New World, Cecilius Calvert appointed as trusted adviser to Leonard Calvert, the governor, a man who was to render his name illustrious in the early annals of Maryland's history. It was most fortunate for him to obtain the services of Cornwaleys. Self-confident, cool in the hour of danger, firm, frank and determined, he would become, without conscious effort on his part, a former of public opinion and a centre to which all eyes might turn in cases of emergency and doubt.¹ In all the activities, whether legislative, judicial or military with which his name will be linked, he will stand out as fearless and undaunted in expressing his views and as a brave defender of the rights of proprietor as well as settler. In debates of the Assembly he will be found a leader and in every military expedition, he will be found the ablest commander.

In the scattered records of this interesting personage, his name assumes a variety of forms. It is spelled in at least four different ways: Cornwaleys, Cornwallis, Cornewallis and Cornwallys. All these forms are to be found in the *Archives of Maryland*.² Brown's *Genesis of the United States* notes two variations, Cornewallis and Cornwallis.³ We have adopted the form "Cornwaleys," because it is so written by himself.⁴

The ancestry of the sturdy Maryland colonist cannot be established with certainty. We will give the genealogy generally accepted and then assign our reasons for throwing doubt on the same. Neill derives his ancestry from the genealogical tree sketched in *The Private Correspondence of Jane Lady Cornwallis*. The authors of *The Genesis of the United States* and *The Cyclopaedia of American Biography* accept these sources.⁵ According to these, Cornwaleys' lineage is traced to the year 1519, when his greatgrandfather,

¹ Streeter, *Papers relating to the Early History of Maryland*, p. 125.

² I—*Archives of Maryland*, Index, p. 552.

³ Brown, *Gensis of the United States*, Vol. II, p. 1085.

⁴ *Calvert Papers*, No. 1, p. 181.

⁵ Neill, *Founders of Maryland*, p. 69; Brown, *op. cit.*, p. 863; *Cyclopaedia of American Biography*.

Sir Thomas Cornwaleys was born.⁶ This nobleman was the husband of Anne, daughter of Sir John Jerningham. He was knighted on December 1, 1548. He was comptroller of the household of Queen Mary and a member of the Privy Council. Due to the fact that he was a Catholic, he was removed from both these offices on the accession of Elizabeth. He died on December 24, 1604, leaving two sons and three daughters. Alice, the second daughter, married Richard Southwell, eldest brother of Ven. Robert Southwell, S. J., who was martyred at Tyburn, February 21, 1595.⁷

Sir Charles Cornwaleys was the second son of Sir Thomas. Nothing is known of his early life. He received the honor of knighthood on July 11, 1603. From the year 1605 until 1610, he was ambassador to Spain. In 1610, he became treasurer of the household of Henry, Prince of Wales. His death occurred on December 21, 1629. Sir Charles Cornwaleys was married thrice. His first wife was Elizabeth, daughter of Thomas Farnham of Fincham, Norfolk.⁸

Sir William Cornwaleys, the father of the Commissioner of Maryland, according to Neill, was a son of Sir Charles Cornwaleys by his first marriage. On August 26, 1595, he married Catherine, daughter of Sir Philip Parker, of Erwarton, Suffolk. The date of his death is not certain, some writers placing it as early as 1614 and others as late as 1631. Thomas Cornwaleys was his second son.⁹

The writer's reasons for doubting the identity of the Maryland Commissioner and the Thomas Cornwaleys of Neill are derived from two sources. Streeter says that the only basis for supposing that Sir Thomas Cornwaleys was the great-grandfather of the subject of our biography is that they were of the same name and creed.¹⁰ We do not regard this as conclusive evidence. Furthermore, a careful scrutiny of the genealogy of the Cornwaleys family, found in Lady Corn-

⁶ *Dictionary of National Biography*, Vol. xii, p. 234.

⁷ *Catholic Record Society, Miscellanea*, Vol. viii, p. 94.

⁸ D. N. B., *loc. cit.*

⁹ Brown, *op. cit.*, p. 863.

¹⁰ Streeter, *op. cit.*, p. 124.

wallis' *Correspondence*, reveals the fact that there is only one Thomas Cornwaleys that could have been the Maryland Commissioner. His wife is Penelope, daughter of John Wiseman of Middle Temple and Tyrrels, in county Essex. From a letter written by Thomas Cornwaleys in 1638, he speaks of his wife.¹¹ At that time, Penelope Wiseman was but three years old. Lady Cornwallis carefully notes whenever any of the persons recorded in her genealogy were married more than once. In the case of Thomas Cornwaleys there is no such fact noted. And there is no indication in any of the records to lead us to suppose that Thomas Cornwaleys was married more than once. Consequently we feel inclined to adopt the conclusion that the Thomas Cornwaleys of this genealogy is not the colonist of this biography.

The details of the life of Cornwaleys previous to coming to Maryland are meagre. Neill claims that he was born in 1603.¹² The same author asserts that in his youth he was a merchant.¹³ When his marriage occurred cannot be stated. There are only two references to his wife in the available records. The first, as noted previously, is contained in a letter dated April 6, 1638, to Lord Baltimore. Therein he refers to her being indisposed so that she could not very efficiently manage his affairs in England.¹⁴ The other will be noted when we speak of Cornwaleys' final departure from the colony. This is all the information recorded in the career of Cornwaleys previous to his becoming a Commissioner of the Maryland Province.

Thomas Cornwaleys, in a document dated November 15, 1633, containing Lord Baltimore's Instructions to the colonists, is designated under the title of Commissioner.¹⁵ On the first organization of the government, Jerome Hawley and Thomas Cornwaleys assumed the offices of Commissioner to advise and assist the Governor. They occupy the most im-

¹¹ *Calvert Papers*, No. 1, p. 170.

¹² Neill, *op. cit.*, p. 70. Throughout this dissertation, the old style of dates is used unless otherwise indicated. O. S. indicates old style; N. S., new style.

¹³ Neill, *Thomas Cornwallis and Early Maryland Colonists*, p. 4.

¹⁴ *Calvert Papers*, No. 1, p. 170.

¹⁵ *Ibidem*, p. 131.

portant posts in the early development of the history of Lord Baltimore's palatinate. This form of administration lasted until the arrival of the commission of November 28, 1637, when the Government was reorganized. The office of Lieutenant General or Governor remained with Leonard Calvert; the duties of Secretary, Registrar of the Land Office, Collector of the Customs and Receiver of the quit rents, were united in the person of Mr. Lewger, and the latter, together with Hawley and Cornwaleys, the former Commissioners, were made members of the Council of the Province, which superseded the original commission.¹⁶

It is strange that among the writers of the early history of Maryland, Thomas Cornwaleys has received little attention. The longest account concerning him is that by Streeter in his work, *Papers relating to the Early History of Maryland*. Neill wrote two articles on Thomas Cornwaleys' life. The first is entitled *Thomas Cornwallis and Early Maryland Colonists*; the other, *Thomas Cornwallis, Commissioner*, written in his book, *The Founders of Maryland*. Streeter's work, though it contains few references has been found reliable. Neill, however, is frequently biased. He affirms that Cornwaleys was a Protestant, though all authorities are agreed that he was a Catholic. In fact, whenever there is a question of religion entering into any of Cornwaleys' acts, Neill forms an *a priori* conclusion that his religion was Protestant. Since the publication of Streeter's work several valuable contributions to Maryland's early history have thrown light upon many phases of Cornwaleys' career.

As one of the founders of Maryland, *Thomas Cornwaleys* should be better known. As a legislator in the Assembly, he upholds the rights of Lord Baltimore against the machinations of Claiborne and others. As an advocate of the rights of the people he is always found a ready and an able champion of their cause. As an upholder of religious toleration, he stands ready to condemn any infraction of his Lordship's orders to obtain this end. In his capacity as Captain General

¹⁶ Streeter, *op. cit.*, p. 104.

of the military forces of the colony he is always prepared to defend the colony against the hostile Indians as well as against the incursions of Claiborne. His relations with the Jesuits in Maryland were most cordial. In his dealings with his fellow-men he was always trustworthy, faithful and honorable. As a Catholic, he deserves the reputation of a staunch adherent of the ancient faith. Russell says of him: "He enjoys the singular distinction of having been the trusted friend of the Proprietary, of the colonists and of the missionaries; and of being the only man in the colony who has been universally praised by Protestant and Catholic writers alike."¹⁷

¹⁷ Russell, *Maryland the Land of Sanctuary*, p. 104.

CHAPTER II

THE MARYLAND CHARTER

The Maryland Charter was granted to Cecilius Calvert, second Lord Baltimore, on June 20, 1632. This document was the bill of rights that was to regulate all the dealings of the Proprietary with his subjects. It was to form the norm according to which all the functions of the Government whatever character these might assume, were to be determined. As Thomas Cornwaleys was to become one of the leaders in the legislative, judicial and military life of the Maryland colony, it is necessary to have an idea as to what were the privileges and rights as well as the limitations of those who stood in a position to direct the destines of the infant colony. A brief analysis of this interesting document will therefore be given in this chapter.¹

The boundaries of the new province were as follows: "All that part of the Peninsula, or Chersonese, lying in the parts of America, between the ocean on the east, and the bay of Chesapeake on the west, divided from the residue thereof by a right line drawn from the promontory, or head-land, called Watkin's Point, situate upon the bay aforesaid, near the river Wigheo, on the west, unto the main ocean on the east; and between that boundary on the south, unto that part of the bay Delaware on the north, which lieth under the fortieth degree of north latitude from the equinoctial, where New England is terminated: and all the tract of that land within the metes underwritten (that is to say) passing from the said bay, called Delaware bay, in a right line, by the degree aforesaid, unto the true meridian of the first fountain of the river Potomac, thence verging toward the south, unto a certain place called Cinquack, situate near the mouth of the said river, where it disembogues into the aforesaid bay of Chesapeake, and thence by the shortest line unto the aforesaid promontory or place, called Watkin's Point; so that

¹ For the text of the Maryland Charter, see: Bozman, *History of Maryland*, Vol II, pp. 9 *et seq.*; Mereness, *Maryland as a Proprietary Province*, pp. 507 *et seq.*

the whole tract of land, divided by the line aforesaid, between the main ocean and Watkin's Point, unto the promontory called Cape Charles, and every the appendages thereof."²

The colony received its name in this manner. The charter was drawn up with a blank where the name of the territory was to be inserted. Calvert wished it to be called *Crescentia*, or the land of *Crescence*, but he left it to the option of the king to designate the title of the colony. The king put the question to Lord Baltimore, who said that he would call it something in honor of his Majesty, but that he was deprived of this happiness owing to the fact that a province had already been named for him, namely, Carolina. Charles then suggested that the name be given in honor of the queen and proposed *Terra Mariae*, or Maryland, which was then agreed upon and inserted in the document. Thus the pro-proposed palatinate was named after Henrietta Maria, daughter of Henry IV, King of France and Navarre, and sister of Louis XIII.³

The origin of the term "palatine" is usually ascribed to the Merovingian Kings of France, who delegated a quasi-royal power in judicial matters to an official known as "count of the palace," *comes palati* or *palatinus*. The feudal lord could annex to the lands which he granted to his vassals such a portion of the *jura regalia* as he deemed fit, reserving to himself the suzerainty.⁴

The territory granted to Cecilius Calvert was to be a palatinate as of the old bishopric of Durham in England. The Lord Proprietor of Maryland was to have "as ample rights, jurisdictions, privileges, prerogatives, royalties, liberties, immunities, and royal rights, and temporal franchises whatsoever, as well as by sea as by land, within the region, islands, islets, and limits aforesaid, to be had, exercised, used, and enjoyed, as any bishop of Durham, within the bishopric or county palatine of Durham, in our kingdom of England,

² Mereness, *op. cit.*, pp. 507-8.

³ Scharf, *History of Maryland*, Vol. I, pp. 51-2.

⁴ *Ibid.*, p. 60.

ever heretofore hath had, held, used, or enjoyed, or of right could, or ought to have, hold, use, or enjoy.”⁵ Lord Baltimore’s grant was to be held in free and common socage,⁶ obliging him to deliver annually at the Castle of Windsor, unto the king, his heirs and successors, two Indian arrows on the Tuesday in Easter Week, as well as the fifth part of all gold and silver found.

Under the stipulations of the charter, the Proprietor of the Province was the owner of its soil. It empowered him, as well as his heirs and assigns, to make feudal grants of any estate or interest in the land, to be held directly of them by the same tenure under which they themselves held it of the sovereign. This rendered the Proprietor the sole tenant of the crown, and exclusive manorial lord of Maryland. The tenure of free and common socage was common to the proprietor as well as to those holding sub-grants. The services rendered under it by the tenant to the landlord, in acknowledgment or consideration of the grant, were fixed and determinate, so that the tenant was above the reach of exaction. They were of so free a character as not to degrade the tenant, and were pacific in their nature, in contradistinction of the military services which might be required under the tenure by knight’s service.⁷ Conformably to this tenure, the manner and terms of the Proprietary’s grants were left exclusively to his own determination, and he retained exclusive control over them throughout the whole epoch of the proprietary government. His conditions of plantation, proclamations and instructions always delineated the conditions under which the lands were granted, as well as the manner and terms of the grant.⁸ All officers who received delegated power in territorial jurisdiction from the Proprietary were appointed by him and were subject to his removal at pleasure.⁹

⁵ Browne, *Maryland the History of a Palatinate*, Note, p. 19.

⁶ McMahon, *An Historical View of the Government of Maryland*, Vol. 1 (the only volume published), p. 168.

⁷ *Ibid.*, pp. 168-9.

⁸ *Ibid.*

⁹ *Ibid.*, p. 50.

In regard to the legislative powers of the Proprietary, the Charter conferred on him included generally all the objects of legislation within the province with the proviso that the laws be consonant to reason, and not repugnant or contrary, but agreeable to the laws, statutes, customs, and rights of the kingdom of England. The document furthermore enjoined that the enactment of laws be effected with the advice, assent, and approbation of the freemen of the same province, or of the greater part of them, or of their delegates or deputies. These were to be called together for the framing of laws, when, and as often as need should require. The right to determine the form and manner of calling the Assembly was expressly vested in the Lord Proprietor of the Palatinate.¹⁰ Such a government of laws, administered by freemen, was the nursery of our free principles and institutions. In contrast with all the colonial governments of that day, we may truly say of it, that it was full of power and privilege to the subject.¹¹

Just as the Charter conferred extensive legislative powers so also did it empower the executive to enforce these laws by the imposition of fines, imprisonment or of any punishment in accordance with the law of England. In fact, it even gave him the authority to punish crimes to the extent of privation of member or life. It gave the Baron of Baltimore the authority to constitute and ordain judges, justices, magistrates and officers as he deemed fit. In short, he was authorized "to do all and singular other things belonging to the completion of justice . . . to award process, hold pleas, and determine in those courts, praetorian judicatories, and tribunals, in all actions, suits, cases and matters whatsoever, as well criminal as personal, real mixed, and praetorian."¹² In the execution of justice the usages and customs of the mother country had an important influence. Just as in the palatinate of Durham, so also in Maryland, the freemen met in the capacity of a law court as

¹⁰ Mereness, *op. cit.*, p. 195.

¹¹ McMahon, *op. cit.*, p. 183.

¹² Cf. Charter, Section VII.

well as in that of a legislative assembly and thus we find that body occasionally trying offenders accused of crimes from that of a simple misdemeanor to that of piracy, murder, or treason.¹³

The fourteenth section of the Charter provides for the proper recognition of merit, and empowers Baltimore to grant favors, rewards and honors by conferring titles and dignities. This prerogative, however, was subject to the restriction "that they be not such as are now used in England" a restriction, as McMahon observes,¹⁴ that rendered the power a mere nullity. The same historian states¹⁵ that the first proprietary in some of his early instructions cherished the idea of conferring dignities as enduring personal distinctions, but fortunately for the colony, the design was never carried into effect as the existence of a titled gentry would have proved a dangerous obstacle to the growth of liberty in the colony. This same section invested the Proprietary with the faculty of erecting and incorporating towns, boroughs and cities, "with suitable privileges and immunities, according to the merits of the inhabitants, and convenience of the places; and to do all and singular other things in the premises, which to him or them (his successors) shall seem fitting and convenient; even although they shall be such as, in their own nature, require a more special commandment and warrant than in these presents may be expressed." These prerogatives may be placed under the caption of regal rights vested in the Proprietary. To these are added the pardoning power whereby this personage was enabled to remit and pardon all crimes and offenses against the laws of the province whether before or after the pronouncement of judgment.¹⁶ This faculty extended even beyond the royal grant so that the Proprietary had the power of pardoning all offenses committed in his domain, even if

¹³ Mereness, *op. cit.*, p. 228.

¹⁴ McMahon, *op. cit.*, p. 158.

¹⁵ *Ibid.*

¹⁶ Scharf, *op. cit.*, p. 61.

they arose under English statutes operating in the palatinate, as well as the laws peculiar to the province.¹⁷

Ecclesiastical rights were vested in Lord Baltimore by the grant of "the patronages and advowsons of all churches which (with the increasing worship and religion of Christ) within the said region . . . shall happen to be built, together with license and faculty of erecting and founding churches, chapels, and places of worship . . . , and of causing the same to be dedicated and consecrated according to the ecclesiastical laws of our kingdom of England . . . as any bishop of Durham, within the bishopric or county palatine of Durham, in our kingdom of England, ever heretofore hath had, held, used or enjoyed, or of right could, or ought to have, hold, use or enjoy."¹⁸ Much has been said, and much written regarding the definition of the terms of the fourth section of the Maryland Charter, by those who assume and endeavor to prove that it was a provision for the establishment of the Church of England in the colony. That this was the king's intention in granting the patent which was issued to Lord Baltimore under a misconception of the latter's religious attitude and subsequent plans, is one view. Another opinion has it that the King and Calvert joined in false representation and in hoodwinking the English people. The terms of this part of the patent have been twisted and tortured into a variety of significations, and have been viewed at whatever parallax best served the purpose of the writers.¹⁹

The wording of the section of the Charter dealing with the religious prerogatives of the Maryland Proprietary does not clear up the difficulty. Considering, however, the attitude of the English Ruler toward Lord Baltimore and other Catholic peers, as well as the future acts of Calvert and his colonial government it becomes clear what religious power he actually possessed. Though the words of the Charter seem to indicate that the Church of England was the only one with a right to existence in Maryland, nevertheless it allowed

¹⁷ McMahon, *op. cit.*, p. 159.

¹⁸ Mereness, *op. cit.*, p. 509.

¹⁹ Russell, *Maryland the Land of Sanctuary*, pp. 56-7.

latitude to found other churches. The Charters of Virginia and Georgia set forth in no ambiguous terms the permission to erect churches, chapels and oratories and of causing them to be dedicated and consecrated according to the ecclesiastical laws of England, but it did not bind him to do so. As a matter of fact one of the first things done in the colony was to dedicate a Roman Catholic Chapel.²⁰ Furthermore, the King knew full well the religious convictions of Cecilius Calvert and his intentions of establishing religious toleration and he was aware that Calvert would not accede to the obligation of fostering the religion of the Church of England to the prejudice of his project.²¹

Military powers vested in the Proprietary according to the provisions of the Charter as well as those of the palatinate government seem to have been granted for defensive purposes only. The Proprietor was captain general of the colonial army and could summon the inhabitants for the defense of the province. He could declare and exercise martial law, in all cases of rebellion, sudden tumult or sedition. None of these rights were to conflict with the military establishment of the mother country. The unlimited rights of war and peace are the peculiar privileges of the supreme power. Consequently the military rights of the colonials were a part of the sovereign dominion of the crown. The military power in the colony was accordingly very properly limited to the protection of the province and was given merely to meet a state of actual hostility to it, arising either from rebellion, invasion or warlike array against it.²²

One more aspect of the Charter remains to be considered, namely, the financial or commercial. The Charter of Maryland was such that it was exalted above every other by its commercial privileges and exemptions.²³ The colonists were

²⁰ Browne, *George and Cecilius Calvert*, Note, pp. 36-7.

²¹ The religious rights of the Proprietary are discussed with clearness and ability by Bishop Russell, *op. cit.*, pp. 56 *et seq.*

²² McMahon, *op. cit.*, p. 160.

²³ *Ibid.*, p. 162.

enabled by it to export all articles grown or produced within the province to any of the ports of England or Ireland, subject only to the customs and impositions paid in similar cases by the inhabitants of England. The proprietary possessed full and absolute power of establishing the ports of entry and discharge for the commerce of the colony, and to invest them with any rights and privileges that he deemed expedient. Contributions from the people were made in the form of taxes, license money, fines and forfeitures. These were to be levied for military protection, for the pay of civil officers, for the erection of public buildings, for the making of public improvements, etc.²⁴ The King by the Charter bound himself and his successors to lay no taxes, customs, subsidies, or contributions whatever upon the colonists.²⁵ The Proprietary also had the power of alienating, selling or renting the land granted to him and his descendants by the Charter.

Under the financial aspect of the Charter arises the question as to whether Lord Baltimore had the right to coin money, a prerogative of sovereignty. Though this is not expressly mentioned in the document, he had this right as Proprietor of a palatiniate.²⁶ Whether Calvert used it is not certain. M. F. Howley, in his *Ecclesiastical History of Newfoundland*,²⁷ gives an interesting account of the discovery of a coin at Waterville, Me., in June, 1880. He ascribes the Waterville Penny to Lord Baltimore's colony of Avalon, though he admits that the coin may belong to the Avalon of Somersetshire, England. Browne affirms that Baltimore in 1659 had dies cut for various denominations of currency. It is most probable, however, that coins were never used and that tobacco, from the first, remained almost the sole currency of the Province.²⁸

²⁴ Mereness, *op. cit.*, p. 339.

²⁵ Browne, *Maryland the History of a Palatiniate*, p. 20.

²⁶ Osgood, *The Proprietary Province as a Form of Colonial Government*, article in *American Historical Review*, Vol. II, pp. 644 *et seq.*

²⁷ Howley, *Ecclesiastical History of Newfoundland*, pp. 87-9.

²⁸ Browne, *op. cit.*, p. 114.

Such then is the Maryland Charter in brief outline. It gave the Proprietary extraordinary powers that might have proved oppressive to the colonists in the hands of a man less wise, just, and humane than Cecilius Calvert, who knew how to use them in the manner best fitted to attain the purposes for which the province was founded. "Though often attacked," remarks Browne,²⁹ "and at times held in abeyance, the charter was never revoked, and was only cast off when the arbitrary power of England had violated its pledges, and the people of Maryland, having outgrown their minority, were ready to take the sovereignty into their own hands."

²⁹ *Ibid.*, p. 20.

CHAPTER III

PREPARATIONS FOR THE VOYAGE TO MARYLAND

Since Lord Baltimore's colonization project was chiefly to secure religious toleration for the oppressed of every faith, it is necessary to have a knowledge of the religious state of affairs in England which led to the formation of his plan to secure this end. George Calvert, the First Lord Baltimore, to whom is due the credit of conceiving this idea, was born in 1580, and became a Catholic in 1624. At the time of his conversion, James I, the first of the Stuart line, still occupied the throne.

On his accession, this monarch had been inclined to grant partial indulgence to his Catholic subjects. He owed it to their sufferings in the cause of his unfortunate mother, Mary Queen of Scots, and he had bound himself by promises to their envoys. But his secret wishes were opposed by his advisers, and, if he was ashamed to violate his word, he dreaded offending his Protestant subjects. At last, he compromised by drawing a distinction between their creed and the persons of the petitioners. To every prayer for the exercise of that worship, he returned a prompt and definite refusal. However, he invited Catholics to frequent his court and conferred on several the honors of knighthood. He even promised to shield them from the penalties of recusancy, as long as by their loyal and peaceable conduct they should deserve the royal favor.¹

The Puritans relied with equal confidence on the good-will of their sovereign. Their first petitions were couched in submissive language. But they gradually assumed a bolder attitude and demanded a thorough "reformation" both of the clergy and the liturgy. The king was irritated, perhaps alarmed; but he preferred conciliation to severity, and invited four of the leading clergymen of their persuasion to a conference at Hampton Court.

¹ Lingard, *History of England*, Vol. vii, p. 15.

Though the result of this conference disappointed the expectations of the non-conformists, they did not despair of bettering their condition; but the king, on the presentation of a petition in their favor, spoke of them with bitterness, which showed how little they had to hope for. It was, he said, to a similar petition that the rebellion in the Netherlands owed its origin: both his mother and he had been haunted by "Puritan devils" from their cradles; but he would hazard his very crown to suppress such malicious spirits; and not Puritans only, but also Papists, whom he hated so cordially that, if he thought it possible for his son and heir to grant them toleration in the time to come, he should fairly wish to see the young prince at that moment lying in his grave.² It was decided in the Star-Chamber that attempts to move the sovereign in matters of religion were to be construed as acts tending to sedition and rebellion. Orders were consequently issued to the judges and magistrates to enforce to the utmost the penal laws against non-conformists and recusants.

A law was passed in the first year of the reign of James I, confirming the statutes of Elizabeth, and enacting, "that the two-thirds of the estates seized should be retained after the convict's death, until all arrears of the penalties are paid, and then delivered over to the heir, provided he be no recusant. The one-third, however, left for his support, is not to be liable to seizure for the penalties. Persons going beyond the sea, to any Jesuit seminary, or not returning within one year after the end of the next session of parliament, were rendered as it respects themselves, incapable of purchasing or enjoying any lands or goods, etc. Women also and children under twenty-one, are restrained from passing over the seas without license from the king, or six of his Privy Council. The penalty of one hundred pounds, levied by 27 Eliz. c. 2. on those who send any child, or other person under their obedience, out of the realm, during her life, is here made

² *Ibid.*, pp. 17-8.

perpetual. Persons likewise, who keep school, otherwise than in some university, public grammar-school, or in the houses of noblemen or gentlemen, not being recusant, without leave from the bishop, together with those who retain or maintain them, forfeit forty shillings for every day they so wittingly offend. The one half of these fines is for the king, the other for the informer.”³

In 1605, the “discovery” of the Gunpowder Plot involved the Catholics in fresh troubles. “To a thinking mind,” says Lingard, “the late conspiracy must have proved the danger and impolicy of driving men to desperation by the punishment of religious opinion. But the warning was lost; the existing enactments, oppressive and sanguinary as they were, appeared too indulgent; and though justice had been satisfied by the death and execution of the guilty, revenge and fanaticism sought out additional victims among the innocent.”⁴ A new code of laws was accordingly drawn up. It repealed none of the laws in force but added to their severity by two new bills containing more than seventy articles inflicting penalties on the Catholics.

Lingard gives us a digest of this legislation as follows:

“1. Catholic recusants were forbidden, under particular penalties, to appear at court, to dwell within the boundaries, or ten miles of the boundaries, of the city of London, or to remove on any occasion more than five miles from their homes, without a special license under the signatures of four neighboring magistrates. 2. They were made incapable of practicing in surgery or physic, or in the common or civil law; of acting as judges, clerks, or officers in any court or corporation; of presenting to the livings, schools, or hospitals in their gift; or of performing the offices of administrators, executors, or guardians. 3. Husbands and wives, unless they had been married by a Protestant minister, were made to forfeit every benefit to which he or she might otherwise be entitled from the property of the other; unless their

³ Madden, *The History of the Penal Laws enacted against Roman Catholics* pp. 169–170.

⁴ Lingard, *op. cit.*, p. 45.

children were baptized by a Protestant minister within a month after the birth, each omission subjected them to a fine of one hundred pounds; and, if after death they were not buried in a Protestant cemetery, their executors were liable to pay for each corpse the sum of twenty pounds. 4. Every child sent for education beyond the sea, was from that moment debarred from taking any benefit by devise, descent, or gift, until he should return and conform to the established church, all such benefit being assigned by law to the Protestant next of kin. 5. Every recusant was placed in the same situation as if he had been excommunicated by name; his house might be searched, his books and furniture, having or thought to have any relation to his worship or religion, might be burnt, and his horses and arms might be taken from him at any time by order of the neighboring magistrates. 6. All the existing penalties for absence from church were continued, but with two improvements: (a) It was made optional in the king, whether he would take the fine of twenty pounds per lunar month, or in lieu of it, all the personal, and two-thirds of the real estate; and (b) Every householder, of whatever religion, receiving Catholic visitors, or keeping Catholic servants, was liable to pay for each individual ten pounds per lunar month.”⁵

Throughout the reign of James I, the condition of Catholics was deplorable. The king himself might have bettered it had he the courage and the power to do so. In every political crisis and in any public excitement, Parliament was constantly clamoring for new edicts against the Catholics.⁶

The penal enactments during his reign were five:

An Act for the due execution of the statutes against Jesuits, seminary priests, recusants, &c.

An Act for the better discovering and repressing of popish recusants.

An Act to prevent and avoid dangers which may grow by popish recusants.

⁵ *Ibid.*, p. 46.

⁶ Madden, *op. cit.*, p. 180.

An Act to cause persons to be naturalized or restored in blood, to conform and take the oath of allegiance and supremacy.

An Act for the reformation of married recusant women, and administration of the oath of allegiance to all civil, military, ecclesiastical and professional persons.⁷

Charles I succeeded James in 1625. Had he been left to follow the dictates of his naturally easy-going temperament, he would have been averse to persecution. Moreover, his marriage to Henrietta Maria, a Catholic, would have induced him to measures of justice towards those of her communion. But the increasing insolence of the Puritan fanatics, their constant accusations against him of favoring Catholics, induced him to make at least a pretense of enforcing the penal laws.⁸

"There is one thing," says Madden, "that ought to be borne in mind, in considering the persecution of the Catholics in those times—all the Stuarts were averse to the furious measures of their Parliaments against Catholics. They thought, as Charles the First especially did, according to Humie, 'that a little humanity was due by the nation to the religion of their ancestors.' Extreme rage against Roman Catholics was, from the first to last, the true characteristic of Puritanism, we are told by the same historian, and that rage was the only public interest that could be said to be truly represented in any Parliament of James, his son, or his grand-children."⁹

Such were the religious conditions about the time that Lord Baltimore decided to found an entirely new colony which should be a refuge for those of his own faith, which he should build up from the foundations, and where his quasi-royal rule would shelter Catholics from the operations of the penal statutes and the persecutions of fanaticism.¹⁰ Nor did he confine his plan of toleration to those of his own creed, for

⁷ *Ibid.*

⁸ Russell, *Maryland the Land of Sanctuary*, p. 19.

⁹ Madden, *op. cit.*, p. 186.

¹⁰ Browne, *George and Cecilius Calvert*, p. 28.

Calvert brought over settlers without regard to their religious opinions, making Maryland a home for all, a refuge to men who fled from the persecution alike of those who upheld the Church of England and those who while fugitives from that very persecution, were re-enacting it with fearful severity.¹¹ Aside from the fact that Maryland was the first of the proprietary governments, the colony is especially remembered in American history as the first in which religious toleration had a place.

The Maryland Charter had been granted to Cecilius Calvert, the second Lord Baltimore, on June 20, 1632, and he had at once taken measures to send an expedition to occupy his newly acquired territory. To assemble sufficient men for the project of colonization and to equip them with all necessaries for the voyage and for habitation in so distant a country as yet a wilderness occupied much time. Added to this, the Virginians caused further delay by their opposition to the Charter. The planters of Virginia were led to suppose that the soil upon which they trod was to be transferred to others. Accordingly a petition was drawn up in the name of the planters, and in May, 1633, laid before the king, in which they remonstrated "that some Grants have lately been obtained of a great proportion of Lands and Territorys within the lymitts of the Colonie there being the places of their Traffique, and so near to their habitations, as will give a generall disheartning to the Planters if they be divided into severall Governments, and a Barre to that Trade, which they have long exercised towards their Supportation and relieve under the confidence of his Majesty's royall and gracious intentions towards them."¹²

The king referred the consideration of this matter to the Privy Council. On June 4, of the same year, the council framed an order, in which they appointed the 28th of that month, when the business should be heard and interested persons might attend. This being done, it was ordered that Lord Baltimore and those who championed the cause of the

¹¹ Shea, *Maryland and the Controversies as to her Early History*, in *American Catholic Quarterly Review*, Vol. x, p. 658.

¹² III—*Archives of Maryland, Council*, p. 21.

planters should meet and settle their controversy in a friendly manner. Their propositions were to be committed to writing and presented to their lordships on July 3, 1633. This order was complied with and it was finally ruled that it was fit "to leave the Lord Baltimore to his Patent and the other Partie to the course of Lawe according to their desire; but for the preventing of further questions their Lordshipps did also think fit and order that things standing as they doe, the Planters on either side shall have free traffique and commerce each with other, and that neither parte shall receive any fugitive persons belonging to the other, nor doe any Act which may drawe a warre from the Natives upon either of them; and lastly that they shall sincerely enterteine all good correspondence and assist each other on all occasions, in such manner as becometh fellow-subjects and members of the same state."¹³ However, this did by no means put an end to the annoyance from Virginia which was destined to last for many years and which was to reach its acute stage through the action of William Clayborne, a name that fills a conspicuous page in the early annals of the Maryland colony. The part played by Thomas Cornwaleys in helping to settle difficulties will be recounted in a subsequent chapter.

The summer and autumn of 1633 were spent in preparations on the part of Lord Baltimore for his new plantation. Finding that his presence was required in England to look after important business connected with his plantation, Cecilius Calvert reluctantly gave up the leadership of the enterprise, trusting "by the grace of God" to be in Maryland in the following year.¹⁴ It was imperative that he remain in England since it was ever necessary to guard the privileges of his Charter in the troubled years that ensued; and the Proprietary of Maryland never saw his distant province. He accordingly appointed his brother, Leonard Calvert, to the governorship of Maryland, a younger brother, George Calvert, accompanying the expedition.¹⁵

¹³ *Ibid.*; also Bozman, *History of Maryland*, Vol. II, p. 24.

¹⁴ *Calvert Papers*, No. I, p. 134.

¹⁵ Steiner, *Beginnings of Maryland*, p. 16.

Enemies of the colonial project were ever on the alert to hinder Lord Baltimore's plans. Rumors were carried to the Privy Council that he intended to carry nuns over into Spain and also soldiers to serve the Spanish sovereign. When the Council laughed at these stories, the Attorney-General was induced "to make an information in the Star Chamber" that the vessels carrying the colonists had departed without proper custom house papers and in contempt of all authority, the emigrants abusing the king's officers and refusing to take the Oath of Allegiance.¹⁶

On October 19, 1633, Lord Coke, the British Secretary of State, informed Admiral Pennington that the *Ark* of which Richard Lowe was master, carrying men for Lord Baltimore to his new plantation, had sailed contrary to orders, the company not having taken the oath of allegiance. He was accordingly instructed to have the *Ark* and the *Dove* brought back. After the vessels were anchored near Gravesend, they were visited by Edward Watkins, the London Searcher, who administered the Oath of Allegiance to all whom he found on board.

Upon his return from this duty Watkins made the following report to the Privy Council:

According to your Lordship's order of the 25th day of this instant month of October, I have been at Tillbury Hope where I found a ship and pinnace belonging to the Right Honorable Cecil Lord Baltimore, where I offered the oath of allegiance to all and every the persons aboard, to the number of 128, who took the same, and inquiring of the master of the ship whether any more persons were to go the said voyage, he answered that some few others were shipped who had forsaken the ship and given over the voyage, by reason of the stay of said ships.¹⁷

That Thomas Cornwaleys took the oath of allegiance seems beyond doubt. He was one of the most prominent men of the expedition and in all probability on the *Ark* when the oath was tendered. Whether it was lawful for a Catholic

¹⁶ Browne, *op. cit.*, p. 41; also Steiner, *op. cit.*, p. 19.

¹⁷ Scharf, *History of Maryland*, pp. 67-8.

to take the Oath was a much mooted question at the time. Those who held that the Oath contained matter objectionable to Catholic belief had the better of the argument. However, since the question was not finally decided, we cannot censure Cornwaleys for taking the Oath when asked to do so.¹⁸

Whilst the ships were still lying in Cowes harbor at the Isle of Wight, Lord Baltimore, on November 13, 1633, sent a list of Instructions to Leonard Calvert, Jerome Hawley and Thomas Cornwaleys, for the government of the expedition during the voyage and upon their arrival at their destination.¹⁹ The letter reveals the wisdom of Cecilius Calvert. That religious toleration was uppermost in his mind is evident from the opening paragraph. The first "Instruction" is couched in this language:

I. Inpri: His Lopp requires his said Governor and Commissioners that in their voyage to Mary Land they be very careful to preserve unity and peace amongst all the passengers on Shipp-board, and that they suffer no scandall nor offence to be given to any of the Protestants, whereby any just Complaint may heereafter be made by them, in Virginea or in England, and that for that end they Cause all Acts of Romane Catholique Religion to be done as privately as may be, and that they instruct all the Romane Catholiques to be silent upon all occasions of discourse concerning matters of Religion; and that the said Governor and Commissioners treate the Protestants wth as much mildness and favor as Justice will permit. And this to be observed at Land as well as at Sea.

The instructions that followed are not without interest. Diligent inquiry was to be made among the sailors and passengers to ascertain what they knew concerning the plots of his Lordship's adversaries to overthrow his voyage. They should find out the names and actions of any concerned in the plots together with all the circumstances. Any information gotten on the voyage or after their arrival in the colony

¹⁸ For the text of the Oath of Allegiance, cf. Russell, *op. cit.*, pp. 529-30. For an account of the controversy on the Oath, cf. Dodd, *Church History of England*, Vol. iv; also *Catholic Encyclopedia*, article "Oath of Allegiance," pp. 177 *et seq.*

¹⁹ The complete letter is to be found in the *Calvert Papers*, No. 1, pp. 131 *et seq.*

was to be sent in writing to the Proprietary by a trusty messenger "in the next shippes that returne for England."

Upon their arrival at the coast of Virginia, they are not to go to Jamestown or to Point Comfort "unless they should be foret unto it by some extremity of weather (which God forbidd) for the preservation of their lives and goodes, and that they find it altogether impossible otherwise to preserve themselves." They were to inquire upon arrival if anyone could guide them to the "Bay of Chesapeacke" and "Pattawomeck River" in order to find a proper place for their settlement.

Whilst engaged in looking for an appropriate location, they were directed to send a trustworthy messenger, who should be a member of the Church of England to carry the royal instructions to the Governor and Council of Virginia. This messenger was also to take a personal letter from Baltimore to Sir John Harvey in which he expressed his regret that he could not come personally to Maryland till the next year. He desired a "good correspondency" with him and the Plantation of Virginia. He furthermore assures Harvey of his particular affection to his person by reason of the reports of his worth, and for the kind letters Harvey sent the Proprietary since he heard of Baltimore's intention to become his neighbor.

With respect to Claiborne, Baltimore's policy was shrewd and peaceable. As soon as convenient, a man of the Church of England was to take a letter to him, notifying him of the arrival of the colonists, and of the authority over the province committed to Leonard Calvert, Hawley and Cornwaleys, and inviting him to speak with them on business of importance. If Claiborne agrees to meet the Maryland authorities he is to be courteously received and to be assured of Baltimore's willingness to give all the encouragement he can to proceed in the plantation that he had settled within his Lordship's precincts. In case Claiborne does not accept the invitation, he is not to be disturbed for the first year, until the Proprietary can give further instructions. Meanwhile the colonists are to keep informed as to the progress of his plantation and his designs, and furthermore his strength and his cor-

respondence with Virginia. They are also to keep posted as to the manner in which the Virginians view the Maryland Charter.

The other portions of the letter concern the colonists themselves. Upon their choice of a plantation his Majesty's letters patent are to be publicly read before the people, after which, his Lordship's Commission was to be laid before them. Either the Governor or one of the Commissioners is to declare his Lordship's intentions which are: The honor of God to be secured by the conversion of the savages to Christianity, the extension of his Majesty's domains, to provide for the success and comfort of those who have made great sacrifices to plant the colony. Finally an oath of allegiance is to be administered to all to give public assurance of their fidelity and allegiance to his Majesty.

The colonists are to provide a suitable place for a fort. Near this is to be built a house for the Governor or other Commissioners with a church or chapel adjacent. The planters are to receive a proper allotment of land whereon to build their homes. These are to be built uniformly and as near to the others as possible. Streets are to be marked off. An account of this is to be sent to Lord Baltimore so that he may be satisfied that justice had been done to every man. Military protection is provided for by the training and drilling of men at stated times.

"In this interesting document," says Browne,²⁰ "we see the principles of Baltimore's policy, and the germs of the polity of Maryland. Religious toleration, 'unity and peace' between members of different faiths, began on the *Ark* and *Dove*. Whether we attribute it to wise policy, to the cogenacy of circumstances, or to a liberal and tolerant spirit, in advance of his age, on the part of the proprietary, the fact remains the same that equal justice and Christian charity to both Catholic and Protestant was the key-note of his rule . . . No one, we think, can read these instructions without seeing that they proceed from a wise, just and generous man."

²⁰ Browne, *op. cit.*, p. 57.

CHAPTER IV

THE SETTLEMENT OF MARYLAND

After the colonists left Gravesend, where they seem to have been detained for several weeks, the *Ark* and the *Dove* took on board among others two Jesuit Fathers, Andrew White and John Altham. The personnel of the party being complete with the arrival of these, we can now consider the number of the passengers on the two ships. And this cannot be stated with any estimate approaching exactitude. Lord Baltimore wrote to Lord Wentworth before the departure that besides his two brothers, "very near twenty other gentlemen of very good fashion" had accompanied the expedition.¹

Cecilius Calvert in the "Conditions of Plantation" published in a work entitled *A Relation of Maryland*,² gives a list containing "The names of the Gentlemen adventurers that are gone in person to this Plantation": Leonard Calvert, the Governor; George Calvert, his Lordship's brothers; Jerome Hawley, Esq., Thomas Cornwaleys, Esq., the Commissioners; Richard Gerard, son to Sir Thomas Gerard, Knight and Baronet; Edward Wintour, Frederick Wintour, sonnes of the Lady Anne Wintour; Henry Wiseman, son to Sir Thomas Wiseman, Knight; John Saunders, Edward Cranfield, Henry Greene, Nicholas Fairfax, John Baxter, Thomas Dorrell, Captaine John Hill, John Madcalfe, William Saire."

Besides these gentlemen many others went along as is evident. The London Searcher mentioned in the last chapter reported that about one hundred and twenty-eight had taken the Oath of Allegiance. This number was added

¹ Radcliffe, *Letters and Dispatches of Thomas Wentworth Strafford*, Vol. I, pp. 178-9.

² *A Relation of Maryland*, edited by Francis L. Hawks, p. 65. This work must not be confounded with Father White's *Relatio Itineris in Marylandiam*, nor with *A Brief Relation of the Voyage unto Maryland* (*Calvert Papers*, No. III). In our notes, when referring to Father White's work, the word "Relatio" is used, while in referring to the other, "A Brief Relation" is used.

to when they left Gravesend so that it was brought up to three hundred.³

Richardson, in *Side-Lights on Maryland History*,⁴ mentions some of the party that travelled on the *Ark*, and others that went on the *Dove*. On the former were the following: Leonard Calvert; the Commissioners, Hawley and Cornwaleys; Richard Lowe, Master of the *Ark*; John Bowlter, Purser; Richard Edwards, Surgeon; on the latter: Captain Wintour, commander of the *Dove*; Richard Orchard, Master of the *Dove*; Samuel Lawson, mate; John Games, gunner; Richard Kenton, boatswain; John Curke and Nicholas Parrie, of the crew.

There are two accounts of the voyage of the ships to Maryland. One of these is the *Relatio Itineris in Marylandiam* of Father White, written towards the end of April, 1634, to the General of the Society of Jesus, Mutius Vitellesetis; the other is entitled *A Briefe Relation of the Voyage unto Maryland* authenticated by Leonard Calvert himself, and sent to England on the return of the *Ark*.⁵

On the twenty-second of the month of November, in the year 1633, being St. Cecilia's Day (Friday), we set sail from Cowes, in the Isle of Wight . . . after committing the principal parts of the ship to the protection of God especially, and of his most Holy Mother, and St. Ignatius, and all the guardian angels of Maryland.⁶

The voyagers soon encountered stormy weather in which the *Dove* was driven from her sister-ship and was not seen again for six weeks, the crew of the *Ark* thinking all the while that "shee had assuredly beeene foundered and lost in those huge seas." Sweeping around by the Barbadoes and other West India Islands, the two vessels which had joined company, glided peacefully at last between the capes into the bay which Spanish navigators named in honor of the Mother

³ Russell, *Maryland the Land of Sanctuary*, p. 72; also Browne, *George and Cecilius Calvert*, p. 45.

⁴ Pages 8-9.

⁵ *The Calvert Papers*, No. III, pp. 26 et seq.

⁶ *A Brief Relation*, p. 28.

of God, but which was to bear the Indian name of Chesapeake.⁷

Leonard Calvert, writing to Sir Richard Lechford,⁸ states that they arrived in Virginia on February 27, where they remained for eight or nine days to land some passengers and to deliver the King's letters to Governor Harvey. The *Relation*⁹ confesses that the landing was "much contrary" to the Lord Proprietary's instructions. The reason for so doing is not apparent unless it be that they had some presage that the attitude of the Virginians was not so hostile as anticipated by Cecilius Calvert. Harvey received them very courteously though against the will of his council. The *Relation* also states that Captain Claiborne was there from whom they understood that the Indians were prepared to resist the colonists, having heard that six Spanish ships were coming to destroy them. The author then remarks that "the rumour was most like to have begunne from himselfe."¹⁰

Calvert now proceeded up the bay to the territory embraced within his Charter. Near the Island of St. Clement they came to anchor. "On the day of the Annunciation of the Most Holy Virgin Mary in the year 1634," writes Father White, "we celebrated the mass for the first time, on this island. This had never been done before in this part of the world. After we had completed the sacrifice, we took upon our shoulders a great cross, which we had hewn out of a tree, and advancing in order to the appointed place, with the assistance of the Governor and his associates and the other Catholics, we erected a trophy to Christ the Saviour, humbly reciting on our bended knees, the Litanies of the Sacred Cross, with great emotion."¹¹

With what fervor Cornwaleys and his associates must have assisted at the celebration of the holy Sacrifice! Many

⁷ Shea, *History of the Catholic Church in the United States*, Vol. I, p. 41.

⁸ *Calvert Papers*, No. III, p. 20.

⁹ *A Brief Relation*, p. 38.

¹⁰ *Ibid.*

¹¹ *Relatio*, p. 33. The Litany of the Holy Cross is to be found in *The Catholic World*, Vol. 39, p. 41.

a prayer went up to heaven for the success of their colonial project. With enthusiasm they erected the sign of salvation to declare to the bystanders and to posterity as well, in this act, that Christ was to reign in Maryland. It was to remain a sign of good will towards all. Religious toleration was to find a realization. The oppressed in conscience were here to find a refuge. Here was erected the first altar to religious liberty on this continent; and the fires first kindled on it ascended to heaven amid the blessings of the savage.¹²

With the religious rites just mentioned began the acts of the settlers in their own land. The Governor's next step was to establish friendly relations with the tribes of the locality. Hearing that the chief of Piscataway had a sort of suzerainty over the other Indians, he resolved to meet him to declare to him the objects of his expedition. Sailing up the Potomac he first came to a town, where a werowance, or king, lived. This chief was but a child, and his uncle Archichu acted as regent. Archichu received them with marks of kindness, and at their departure invited them to visit him again.¹³

Leaving these hospitable Indians, Leonard Calvert proceeded to Piscataway, the seat of the emperor, where five hundred bowmen came to meet them at the water side. The chieftain came on board the ship, where he was kindly received. Being assured of the friendly intentions of the colonists, he gave them leave to settle wherever they pleased.¹⁴ On this occasion, Captain Henry Fleete, an Englishman, who lived among the Indians and was conversant with their language, acted as Calvert's interpreter.¹⁵

The Indians gradually lost their fear and awe of the colonists once they were convinced of their friendly attitude

¹² McMahon, *An Historical View of the Government of Maryland*, p. 198.

¹³ *A Brief Relation*, p. 40.

¹⁴ *Ibid.*

¹⁵ Captain Fleete came to Virginia at an early age in life. He was captured by the Indians on the Potomac in 1623; remained a captive until 1627, during which time he became familiar with the Indian tongue. Later he became an interpreter, trader and legislator in Maryland. He finally settled at Fleet's Bay in Lancaster County, Virginia, and represented the County in the House of Burgesses, 1652. The date of his death is not recorded. Cf. Brown, *Genesis of the United States*, Vol. II, p. 892.

towards them. In the quaint language of the period, the *Relation* chronicles that "the Indians began to lose their feare and come . . . sometimes aboard our shipp, wondering where that tree should grow, out of which so great a canow should be hewen, supposing it all of one piece, as their canows used to be, they trembled to heare our ordinance thinking them fearefuller then any thunder they had ever heard."¹⁶

Calvert, not finding a suitable location for a town, decided, upon his return to St. Clement's, to follow Fleete's advice and drop some nine leagues further down the Potomac to look for a site. Fleete was a very capable guide owing to his knowledge of the place and on account of his favor with the aborigines. The Governor had some apprehensions as to Fleete's attitude toward his colonial scheme, consequently he offered him a portion of the beaver trade in order to win his good-will. Accepting the offer, Fleete led Calvert's party to "a most convenient harbour, and pleasant Countrey lyinge on each side of it, with many large fields of excellent land cleared from all wood."¹⁷ This place was on a river now known as the St. Mary's, four or five leagues from the mouth of the Potomac, and was known as the town of Yoacomico.

Calvert was greatly pleased with the place and resolved upon an interview with the Indian chief. The "king of Yoacomaco" was accordingly offered "axes, hoes, cloth and hatchets" for the place. Accepting these, it was agreed that the colonists might live on one part of the town, the Indians surrendering to them their houses and some corn which they had planted. At the end of the harvest the savages were to give over the other portion of the village. The two parties also entered into a treaty to live together in peace and harmony as long as they were neighbors.¹⁸

Thirty miles of ground were secured from the Indians at this time, and the high-sounding name of Augusta Carolina

¹⁶ Page 41.

¹⁷ *Calvert Papers*, No. III, p. 21.

¹⁸ *A Brief Relation*, p. 41.

was given to it. This name was not much used however, and was soon superseded by the name of St. Mary's County. The town itself was given the name of St. Mary's.¹⁹

After the landing at St. Mary's fortifications were soon erected "sufficient to defend against any such weake enemies as we have reason to expect here."²⁰ Streeter is of the opinion that this work was entrusted to Thomas Cornwaleys, the "Captain." In fact, the intrepidity and military skill of Cornwaleys was such that he was at once made the leader of the armed forces of the colony, and his individuality was so distinctly established that, though there were others in the province who bore the same military title, it was only in alluding to him in particular that the title "the Captain" was used.²¹

Mindful of Cecilius Calvert's Instructions that they received before their departure from England, a ceremony was arranged in which the Charter was read, together with the Proprietary's commission. Then was also announced the intention of Calvert in founding the province, the conversion of the savages to Christianity, to extend the King's dominions, and to do all that can be done for the good of those who had given themselves and their fortunes to the project. The colonists also pledged their allegiance to the crown on this occasion.²²

The settlers now set about building their houses. First in order was the building of a suitable abode for the Governor. Father White was not content to wait till a chapel was built, but immediately converted an Indian's habitation into a chapel which he dedicated to the service of God as the first chapel in Maryland.²³ The planters built their houses close to one another, on regular streets, with gardens back of them. In accordance with the conditions of plantation which provided "that any Englishman who transported

¹⁹ Steiner, *Beginnings of Maryland*, p. 35.

²⁰ *Calvert Papers*, No. III, p. 21.

²¹ Streeter, *Papers relating to the Early History of Maryland*, pp. 125-6.

²² *Calvert Papers*, No. I, p. 136.

²³ *Relatio*, p. 39.

himself, properly equipped, which equipment was duly itemized and with transportation charges estimated at twenty pounds, should receive for himself in freehold estate one hundred acres, with the same amount for his wife, fifty acres for each child above sixteen years of age, and fifty acres for each woman servant under the age of forty years, paying a quit-rent of twelve pence in the commodities of the country for every fifty acres. For each male servant between the ages of sixteen and fifty years so transported, one hundred acres should be given on like conditions, while for every five men transported, the adventurer received not five hundred, but one thousand acres, to be erected into a manor with all the privileges of the English ones.”²⁴

In the meantime the colonists lived on the most friendly terms with the Indians. They hunted together and enjoyed the fruit of the chase. The Indian women instructed the wives of the planters in the methods of cooking products of the soil with which the English were not familiar. The Indians cooperated with the colonists since both had to fear the incursions of the northern tribes who were not so well disposed and who were to give the colonists trouble of which we shall speak in a later chapter.

²⁴ Steiner, *op. cit.*, pp. 40-1.

CHAPTER V

CORNWALEYS AND KENT ISLAND

Affairs in the infant colony seemed to have reached a stage when the colonists could set about undisturbed to carry out the lofty purposes for which they had left the shores of their native land. They were free from Indian hostilities and, under the wise leadership of Leonard Calvert, success in their colonial enterprise was assured. Serious trouble, however, was to arise in a quarter from which they might have looked for nothing else than friendship and cooperation.

The animosity of the Virginians seemed to increase as the prosperity of the Maryland colony became more assured. The causes of Virginia's irritation were three—they were exasperated that the Maryland Charter comprised land that had once been included in their own; they looked with distrust and dislike on what they were pleased to call a popish settlement; and they were aggrieved that the Marylanders had the privilege of trade in foreign markets, which they did not enjoy.¹

To lodge a complaint on any of these scores seemed futile to them at the time. Should they be able to find a flaw in the Charter of Lord Baltimore, they thought that something might be done. We have seen how they registered an objection with the Privy Council against the Charter, but with no success. Despite this fact, they did not lose heart. Claiborne's claim to Kent Island was to become the bone of contention. As Browne remarks, "The trivial question whether a small and unprofitable trading-post should be held mediately or immediately under the King, served as the rallying-point for all the animosities of a generation; and the territorial quarrel of Virginia and Maryland, the religious quarrel of Puritan and Catholic, and the political quarrel of Royalist and Roundhead, all gathered around the claim of Claiborne."²

¹ Browne, *Maryland the History of a Palatinate*, p. 27.

² *Ibid.*, p. 28.

Claiborne had established his trading-post on Kent Island in the Chesapeake, but did not receive any grant of land or attempt to cultivate the soil. The undertaking was unprosperous and a quarrel arose between him and Cloberry & Company, merchants of London, who financed Claiborne's trading venture, each casting the blame on the other. The Londoners asked Lord Baltimore for a grant of the land, intending to oust Claiborne. Calvert did not grant this request as he was desirous of gaining the good will of Claiborne, if possible, to make a friend of one who might become a valuable member of his infant colony.³

Governor Calvert was soon to find out that Claiborne was not to be conciliated. According to his instruction, the Governor informed Claiborne that Kent Island was in Maryland territory. The latter (who did not reside on the Island but in Virginia) rose up in the council and asked what he was to do. The assembly informed him that they saw no reason why the island should be given up. They advised him to do nothing for the present and recommended that a good understanding should be kept up with the Maryland colonists. Governor Harvey tried to do all in his power to preserve friendly relations and even received orders to this effect from the King. But Harvey could do little since a majority in council were ready to thwart every attempt to carry out these orders.⁴

On the 4th of September, 1634, Lord Baltimore directed a set of new instructions "to his brother, Leonard Calvert, and others, his Lordship's Commissioners for the Government of Mariland," of which, the eighth article alone is extant. It reads as follows:

That if possibly they can, without notable prejudice to their owne Collony, for want of sufficient strength to defend themselves, and that Capt. William Claiborne, at the arrivall of these Instructions, continue his unlawfull courses and have not submitted

³ Browne, *George and Cecilius Calvert*, p. 63.

⁴ *Ibid.*, p. 64.

himself unto his Lordship's Patent, they seize upon his person and detain him close prisoner at St. Maries, upon that accusation against him in Capt. Fleete's examination, and that other they have since found against him; for which, his Lordship conceiveth by his former behaviors there will not be wanting cause enough on his parte. That they likewise take possession if they can, of his Plantation, in the Isle of Kent, till upon notice given thereof, to his Lordship, they have further directions what to do with him.⁵

Before these instructions reached the colony, the Governor and Commissioners of Maryland lodged a complaint with the Governor and Council of Virginia charging Claiborne "with evil practises with the Indians, to the subversion of both colonies." On December 8th, the Commissioners were prepared to substantiate their charges. Their witnesses being examined at James City, the findings were transmitted to England. Claiborne could not be dealt with according to Baltimore's instructions owing to the strong sentiment in his favor in Virginia and that same colony's opposition to Maryland.⁶

"Good correspondency" between the two colonies of Maryland and Virginia could not last long when one of the parties was bent on making trouble. The planters of Baltimore's palatinate soon found that the Indians were not as hospitable and friendly as was their wont. The cause was laid by Fleete at Claiborne's door. He accused the latter of trying to persuade the Indians that the Marylanders were not Englishmen but Spaniards bent upon the destruction of the English. One hesitates to believe that Claiborne would have instigated the Indians against men of his own race; and in justice to him it must be stated that when the Indians were questioned on the matter, it was imputed to Fleete that he had prevaricated. The affair was, however, reported to Lord Baltimore. Calvert sent out instructions that Claiborne was to be taken prisoner in case he continued hostilities, and possession was to be taken of Kent Island.⁷

⁵ Streeter, *Papers relating to the Early History of Maryland*, p. 111.

⁶ *Ibid.*, pp. 111-2.

⁷ Browne, *Maryland*, etc., p. 32.

Meanwhile the first session of the Assembly of Maryland was held on February 26, 1635, at which Thomas Cornwaleys was no doubt present. The acts of this Assembly with the exception of one have not come down to us. But, either as a result of action taken at its sessions or owing to the deliberation of the Commissioners, it was decided to have recourse to stringent measures to stop the unlicensed trading with the Indians within Maryland territory without a permit from the Governor.

On March 26, 1635, Claiborne sent Thomas Smith in the pinnace *Longtail* to trade for corn and furs. Smith alleged that he had letters patent from the King for Claiborne to trade in the colonies of America. On the 4th of April he arrived at Mattapany, on the Patuxent River, to trade in the neighborhood of St. Mary's. The next day he was met by Capt. Fleete and Capt. Humber who demanded his license to trade. On presenting his papers, Fleete examined the same and said that they did not permit Claiborne to trade further than the Isle of Kent. Humber asserted that the permit was false. The two Captains thereupon took Smith and brought him to St. Mary's before Cornwaleys who was acting as deputy in the absence of Leonard Calvert. When Smith complained that his ship was seized, Cornwaleys told him that Fleete and Humber had done no more than they were ordered to do, namely, to stop all vessels they should find trading in the Province. Cornwaleys further stated that Smith's credentials were mere forgeries and at any rate covered merely Kent Island. After two days, Calvert returned and sent for Smith and his party at Cornwaleys's house. The Governor decided to keep the vessel. He refused to allow the men to return to Kent Island though they might go to Virginia or to England. Smith refused the permission and said that the Kent Islanders were in need of corn. Calvert answered that this could not be. After waiting for four or five days without prospect of the release of the pinnace, Smith asked for a boat with which to return home. This request was denied but Calvert allowed him to

arrange with the Indians for transportation and the Islanders were sent away with only one gun, the property of Smith, and without victuals.⁸

To retaliate for the loss of the *Longtail*, Claiborne immediately granted a warrant to Lieutenant Ratcliffe Warren to seize and capture any of the pinnaces or other vessels belonging to the government of St. Mary's. An armed boat was fitted out, manned with about thirty men from Kent Island under Warren's command. When Calvert heard of this, he equipped two vessels and sent them out under command of Captain Thomas Cornwaleys. The two pinnaces were known as the *St. Margaret* and the *St. Helen*. Cornwaleys was ordered to proceed to Kent to put down the rising rebellion. During a cruise in the bay some of Claiborne's vessels were found trading without license. They were accordingly seized as lawful prizes.

On the 23rd of April, 1635, an encounter took place between Warren's vessel, the *Cockatrice* and Cornwaleys' ships. The hostile craft met in the Pocomoke River. Here was fought the first naval battle upon the inland waters of America.⁹ In the combat that followed, both sides suffered the loss of life. The casualty list comprises the following who were killed: William Ashmore, of Cornwaleys' party; Lieutenant Warren, John Belson, William Dawson and three others, of Claiborne's company.¹⁰

In the Proceedings of the Assembly,¹¹ we find the following account of this event.

then was the house moved by the Attorney to enquire of the death of william Ashmore, Ratcliffe warren, John Bellson, & william dawson, and the house having heard the evidence of Cyprian Throughgood, John nevill, Cuthbert ffenwich & Edward ffleete did find that the said Ratcliffe warren, John Bellson, william dawson with divers others did assault the vessells of Capt. Thomas Cornwaleys & his company feloniously and as pyrates & robbers to take the said

⁸ *Calvert Papers*, No. 1, pp. 141 *et seq.*

⁹ Scharf, *History of Maryland*, Vol. 1, p. 109.

¹⁰ Steiner, *Beginnings of Maryland*, p. 58.

¹¹ I—*Archives of Maryland*, Assembly, p. 17.

vessels; and did discharge divers peices charged with bulletts & shott against the said Thomas Cornwaleys & his company; wherevpon & after such assault made the said Thomas Cornwaleys and his company in defence of themselfed & safegard of their lives not being able to flie further from them after warning given to the assailants to desist from assaulting them at their owne perill, did discharge some gunnes vpon the said Ratcliff warren and his company; of whch. shotts the said Ratcliff warren John Bellson, and william dawson died; and so they find that the said Tho: Cornwaleys & his company did lawfully & in their owne necessary defence kill the said Ratcliff warren John Bellson and william dawson; and doe acquitt the said Thomas Cornwaleys & his company of the death of the said Ratcliff warren John Bellson and william dawson.

and they further find that the said Ratcliff warren, and his company did discharge their gunnes against the said Thomas Cornwaleys and his company and did kill the said william Ashmore being one of the company of the said Thomas Cornwaleys; as felons pyrates, and murthers.

It does not appear that the surviving comrades of Warren were taken prisoners by Cornwaleys;—they probably returned with their wounded and dead to the Island of Kent, while he and his party continued their cruise down the bay.¹²

On May 10, the Captain encountered, in the Great Wicomico River, which was, in fact, within the boundaries of Virginia, another boat belonging to Kent Island, commanded by Smith, with which there was some collision, though no bloodshed ensued. After this, Cornwaleys' expedition returned to St. Mary's.¹³

The attempt against Kent Island on the part of Cornwaleys was only partially successful. Claiborne succeeded in obtaining assistance in Virginia, where Harvey's government had been superseded by another, and, though much crippled by the action of the Marylanders, by his personal influence and effort, without aid from his partners in London, he succeeded for nearly three years in maintaining himself

¹² Streeter, *op. cit.*, p. 129.

¹³ *Ibid.*

upon the Island, and in prosecuting an uncertain traffic with the natives, who were, in general, friendly towards him.¹⁴

In May, 1637, a letter was directed by the King to the Commissioners for Foreign Plantations and all other royal officers. In this document were reviewed the grants of Avalon, in Newfoundland, and Maryland to the Lords Baltimore and the transportation of colonies to each province. Owing to the danger that some patents may be issued prejudicial to Lord Baltimore's patents, Charles I, strictly orders that all applications for grants of land near either province be delayed, until the Proprietary should be notified. The King also announces his intention not to issue any writ for the overthrow of either the Charters of Avalon or Maryland.¹⁵

Late in the year 1636, Captain George Evelin arrived at Kent Island as agent and commander of the island. Evelin soon became a convert to the justice of Lord Baltimore's claims in regard to that place. The favorable disposition of the King, the complaisance of Evelin and the determination of the Proprietary to press matters soon determined the Governor to take decisive steps to subdue Kent Island and to put an end to the long-standing trouble that disturbed the peace and prosperity of his colonial domains.

In November 1637, Governor Calvert wrote a letter to the inhabitants of Kent Island in which he promised a general pardon for past offenses if they would cease their opposition and submit to his government. He furthermore told them that he would appoint as their commander any one whom they would choose from among their number. Due to the influence of a brother-in-law of Claiborne, John Butler, and Thomas Smith, the islanders refused the offer. Hereupon Calvert appointed Evelin. Leonard Calvert now took twenty musketeers from St. Mary's under command of Capt. Cornwaleys. They intended to seize Butler and Smith and bring the rest to a better state of mind. Owing to adverse

¹⁴ *Ibid.*, p. 131.

¹⁵ III—*Archives of Maryland, Council*, p. 55; also Steiner, *op. cit.*, p. 71.

weather conditions, Calvert was forced to abandon the expedition after remaining out a week.¹⁶ Cornwaleys does not seem to have been in full harmony with Calvert on this occasion. This conclusion may be drawn from the opening lines of a letter of Cornwaleys to Cecilius Calvert, on April 16, 1638. The Captain writes:

I receaued yr. Letr. dated the 25: of May last for
wh. and yr therein nobly proffered favoures, I should
before this time haue retourned humble thanks, had
I not hoped in person toe haue kist yr. hands this
yeere in England. But yr. Lops. Service and the
pretended Good of Maryland, would not permit mee
toe provide for my Journy, nor yet toe follow my
owne affayres when my best diligence had beeene
most vrgently needfull for the Accomodating of
them toe my best Advantage.¹⁷

In virtue of a commission dated December 30, 1637, directed to him at Kent Island, Captain Evelyn was appointed Commander of the Island and its inhabitants, an office he held before from Cloberry & Co. He was constituted with authority to choose six or more efficient men of the place as his counsel. He was empowered to call a Court as often as occasion demanded and to determine any civil case in which not more than ten pounds sterling was involved in damages or demands, criminal cases to be decided to the extent of the jurisdiction of any justice of the peace in England, not extending to life and member. For the execution of justice and the conservation of the peace, he could appoint all necessary officers who were to receive the same fee as the officers of the same standing in Virginia.¹⁸

After Evelyn had received this commission, he came to Kent Island in company with Zachary Mottershead of Maryland, who brought with him the Patent of Maryland which was to be read to them. John Butler then demanded if Evelyn were an agent for Cloberry & Co., or for the Marylanders. Evelyn answered that he was agent for both. He

¹⁶ *Calvert Papers*, No. 1, p. 182.

¹⁷ Steiner, *op. cit.*, p. 71 (note). This letter is to be found in *Calvert Papers*, No. 1, p. 169.

¹⁸ *III—Archives of Maryland*, p. 59.

further stated that he himself had spoken against the Maryland Charter and held Claiborne's commission "firm and good against the same, and that the Marylanders had nothing to doe with the Ile of Kent." He also declared that he had seen the Patent of Lord Baltimore and recognized his rights "that he was formerly mistaken and overseene as he perceiveth now they were, but he himselfe now understood it better."¹⁹ He then told them that it was better to live under Lord Baltimore's government and enjoy the advantages of trade which they could not enjoy under Virginia. Claiborne's patent, he assured them, gave him license to trade in Nova Scotia and New England but not in the Chesapeake.²⁰

The same day that Leonard Calvert issued his commission to Evelin, Thomas Cornwaleys was given the following license to trade:

Know all persons whom it concerneth, that I have & hereby give free Liberty and License to Thomas Cornwallis Esqr: and one of the Council of this Province to trade with any the Indians of this Province for corne or Roanoke or peake, and the same to utter and Sell to any of the Inhabitants of this Province, and no further or otherwise, this License to endure until I shall signifie the Contrary. In Witness whereof I have hereunto Set my hand and Seal this 30th of December 1637.

LEONARD CALVERT.²¹

On February 17, 1637, a proclamation was issued signed by Leonard Calvert, Jerome Hawley and John Lewger for an expedition to the Isle of Kent. In the document it is stated that the inhabitants had committed many piracies, insolences, mutinies and contempts against the government. Warrants were issued against malefactors which were disregarded. Even prisoners were forcibly rescued from the hands of the law by the people. Worst of all, they were

¹⁹ V—*Archives of Maryland, Council*, pp. 185, 203, 209, 218.

²⁰ *Ibid.*, pp. 196, 203, 218. Calvert's commission is dated in the month of December. The *Archives* state that this event took place in November. Furthermore the commission is also referred to as having been given in November. Cf. Letter of Leonard Calvert to his brother, in *Calvert Papers*, No. 1, p. 182.

²¹ III—*Archives*, p. 57.

conspiring with the Indians against the Marylanders. It was therefore decided that the Governor sail against them with a sufficient number of armed men under the leadership of Captain Cornwaleys to reduce the inhabitants to subjection by martial law and even to punish the offenders by death if need be.²²

A letter of Leonard Calvert to the Proprietary dated April 25, 1638, describes the taking of Kent Island.²³ He states that thirty choice musketeers formed the military party. Smith and Boteler were taken prisoner. Calvert then issued a proclamation of a general amnesty for all the inhabitants provided they submitted to the Maryland government within twenty-four hours. This the people consented to do. Calvert thereupon assured them of his intention to do all that he could for their well-being, provided they deserved such treatment. Whilst at the Island, the Governor held court and heard divers cases between the settlers. At the end of its session, he assembled the inhabitants to make choice of their delegates to the Assembly which was to be held at St. Mary's for the making of laws. Before Calvert departed he told the islanders that any man that held or wished to acquire land should take out a patent for the same under the seal of the Province. He promised to come the next summer with Mr. Lewger who was to survey the land and give them the grants reserving only such rents and services to the Proprietary as the law of the province should appoint.

At a session of the Assembly on March 14, 1637, an Act of Attainder against William Claiborne was introduced. The bill for the same was read a second time on the following day, and on March 16 [the bill] was passed.²⁴ As a result, all the property of Claiborne within the Province became forfeited to the Lord Proprietor.²⁵

On March 14, 1637, began the trial of Thomas Smith. He was indicted on a charge of piracy. After hearing the evi-

²² *Ibid.*, p. 64.

²³ *Calvert Papers*, No. I, pp. 182 *et seq.*

²⁴ *I—Archives*, pp. 16, 18, 21.

²⁵ Bozman, *History of Maryland*, Vol. II, p. 64.

dence in the case, he was found guilty. The President then pronounced sentence in the name of all the freemen. It read:

Thomas Smith you have beene indicted of felony and pyracie, to your indictm^t. you have pleaded not guilty, and you have beeene tried by the ffreemen in this general Assembly, who have found you guilty, and pronounced this sentence upon you, that you shall be carried from hence to the place from whence you came, and thence to the place of exequution, and shalbe there hanged by the neck till you be dead; and that all your lands goods & chattels shalbe forfeited to the Lord Propriet^r., saving that your wife shall have her dower, And so God have mercy vpon your soule.²⁶

Then the prisoner demanded his clergy. Since the assistance of ministers of religion to attend the condemned was denied in certain crimes, the President answered that this could not be allowed in this case, and if it might, yet it was now too late after judgment.²⁷ Since no record appears after this transaction in regard to Smith, it is not certain what his final fate was though it is probable that he was executed in accordance with the sentence.²⁸ With regard to Boteler, he was not tried, as Calvert hoped, by showing him favor, to win him and to make of him, if possible, a good member of his colony and, if his good disposition toward the Proprietary warranted it, to give him the command of the Isle of Kent.²⁹ Boteler seems to have come up to the expectations of Calvert as he was later appointed to the command of the militia of the Island. This confidence was not misplaced. He remained faithful to the government, and held various offices of trust in the province until his death in 1642.³⁰

The Kent islanders, who were a peaceful folk, accepted the situation very cheerfully, had their lands, to which they had as yet no title, confirmed to them, and in all ways deported themselves as good citizens.³¹

²⁶ *I—Archives*, pp. 16 and 17.

²⁷ *Ibid.*, p. 17.

²⁸ Bozman, *op. cit.*, p. 65 (note).

²⁹ *Calvert Papers*, No. 1, p. 186.

³⁰ Browne, *G. and C. Calvert*, p. 82.

³¹ *Ibid.*

CHAPTER VI

CORNWALEYS AS LEGISLATOR

From the events related in the preceding chapter in which Captain Cornwaleys played so conspicuous a part, one is led to believe that his services to the Maryland colony were chiefly of a military nature. Were the records of those early days still in existence, they would, no doubt, tell us many interesting facts relating to Cornwaleys' career as a Commissioner. In this capacity, he must often have been called upon to aid and counsel Governor Calvert in his projects for the prosperity of the Palatinate. Cornwaleys' whole-hearted zeal for the welfare of the colonists that was brought into play in subsequent days, must surely have been in evidence in the first years of Maryland when the services of just such a man were so valuable and indispensable.

Cornwaleys' expedition to Kent Island was the last public service performed by him in his capacity of Commissioner. Before the opening of the General Assembly of 1638, a new commission was brought by Secretary Lewger. Captain Cornwaleys was retained as an adviser of the executive, but under the title of *Councillor*, in conjunction with Hawley and Lewger.¹

The General Assembly of 1638 is the first of which we have any record. However, this was not the first Assembly held. An Assembly was held on February 26, 1635, just eleven months after the colonists had taken possession of their new territory. Its proceedings would without doubt form a most interesting chapter in the early annals of Maryland, but unfortunately no account remains to tell the story. The very fact of its being held would have been lost to us had it not been for a casual reference to one of its acts in the proceedings of the Assembly held on March 24, 1637: "whereas by an Act of General Assemblie held at St Maries on the six and twentieth day of Febray 1634 among other wholesome

¹ Bozman, *History of Maryland*, Vol. II, p. 46.

lawes and ordinances then made and provided for the welfare of this Province, it was enacted, that the Offenders in all murthers and felonies should suffer such paines, losses and forfeitures as they should or ought to have suffered in the like crimes in England.”²

The Second General Assembly of Maryland was held at St. Mary's and opened on the 25th of January, 1637. The freemen of the Province had received due notice to repair to the Assembly, either personally or through their representatives. According to Streeter,³ some attempts at civil division had already been made in the colony. All the settlements were regarded as forming the County of St. Mary's; and different localities, as they became sufficiently populous, were designated *hundreds*. St. Mary's Hundred included the dwellings and plantations within the vicinity of the town of that name; St. George's Hundred, embraced the settlers that resided on the west bank of the river of the same name; Mattapanient was the name of a settlement, not yet numerous, on the Patuxent River, and not yet dignified by the designation of a Hundred. Kent Island was also represented.⁴

There does not seem to have been any inclination on the part of the people to delegate any one individual to act for them through a public election, but many of the freemen, not finding it convenient to attend, gave a *proxy* to some member to act for them, so that one person in fact represented a considerable number of freemen, and the result was the same as though all in whose name he acted had united to choose him their burgess.⁵ “During the sessions of this Assembly,” says Steiner,⁶ “sixty-four different persons were present and twenty-six more freemen are mentioned, who did not appear.” The sessions were presided over by Leonard Calvert, who is designated as “The Lieutenant General” or as “The President.” The name of Captain

² I—*Archives of Maryland, Assembly*, p. 23.

³ Streeter, *Papers relating to the Early History of Maryland*, pp. 10-11.

⁴ *Ibid.*

⁵ *Ibid.*, p. 13.

⁶ Steiner, *Beginnings of Maryland*, p. 76.

Thomas Cornwaleys usually appears in the records of the proceedings immediately after that of the President.

After the members had assembled on the first day, certain orders were established by general consent to be observed during the sessions of the Assembly. These orders were as follows:

Imprmis, the Lieutent Grall as President of the Assembly, shall appoint and direct all things that concerne forme and decency to be observed in the same; and shall command the observance thereof as he shall see cause upon paine of imprisonment or fine as the house shall adjudge.

Item every one that is to speak to any matter, shall stand up, and be uncovered and direct his speech to the Lieutenant Generall as President of the Assembly. And if two or more stand up to speake together, the Lieutent Grall shall appoint which shall speak.

Item no man shall stand up to speak to any matter until the partie that spake last before, have sate downe, nor shall any one speake above once to one bill or matter at one reading nor shall refute the speech of any other with any uncivil or contentious termes, nor shall name him but by some circumloquution. And if any one offend to the contrary, the Lieutenant Generall shall command him to silence.

Item the house shall sitt every day at eight of the clock in the morning, and at two of the clock in the afternoone.

Item the freemen assembled at any time to any number above ten persons, at the houres aforesaid, or within one houre after, shalbe a house to all purposes.

Item every one propounding any matter to the house shall digest it first into writing and deliver it to the Secretary to be read unto the house

And it was ordered by the house that these Orders should be sett up in some publique place of the house, to the end all men might take notice of them.⁷

During the course of this session of the Assembly Cornwaleys appeared as proxy for various members holding the right to vote in their stead. On the first day, he held one; during the remainder of the sittings he held twelve others,

⁷ *I—Archives*, pp. 4-5.

besides two, which were offered to him on one occasion, but which, by a vote of the house, he was not allowed to accept.⁸

On the second day it was ordered that any member of the house who did not put in an appearance at the appointed time should be amerced twenty pounds of tobacco for every offense. Twelve of the first Acts of the draught of laws transmitted by the Proprietary were read and debated. In the afternoon session the debate continued.⁹ The Assembly then adjourned till January 29th.

The third day of the Assembly is worthy of particular attention. It was the first occasion on which we find Cornwaleys voicing his opinion. The question under discussion regarded the "Privilege of Parliament" which exempted the legislators from arrest during the Assembly and it was mooted whether freemen having made proxies during the Assembly could be apprehended before the dissolution of the same. Cornwaleys maintained that by delegating their vote to another, they deprived themselves of this right to exemption. Cornwaleys' object was to curtail the extent of official privilege. But the majority of the members held that no man who had a right to sit in the Assembly could be arrested until, after the close of its sessions, he had sufficient time to travel to his place of residence.¹⁰

Then the question arose whether the body of laws sent over by Cecilius Calvert for their acceptance, and which were read and discussed the day previous, should be read again, or at once put to the vote. The Captain was of the opinion "that they should expect a more frequent house," while Captain Fleete advocated reading them again; but the majority, including Calvert and Lewger, favored immediate action. However, when the question actually arose whether the laws should be accepted or rejected, it was found that Calvert and Lewger who controlled fourteen "voices" were on the affirmative side, while the remainder, holding thirty-seven votes, were on the negative.

Then the discussion arose as to what laws should govern

⁸ Streeter, *op. cit.*, p. 133.

⁹ I—*Archives*, pp. 6-7.

¹⁰ *Ibid.*, p. 8.

the Province. Some held that certain temporary enactments should be made to hold until they heard again from England. Then the President emphatically denied any power to the house to originate any laws. Cornwaleys suggested the laws of England, to which the Governor replied, that his commission gave him power to act in civil cases by the laws of England, in criminal cases also "not extending to life or member." In the latter, he was limited to the laws of the Province which gave him no power to inflict punishment "on any enormous offenders." However, the suggestion was offered that since offenses calling for such punishment could hardly be committed without mutiny, the offenders could be punished by process of martial law. This suggestion seems to have settled the difficulty for the time as the discussion then ended.¹¹

During the afternoon session of the same day, January 29th, a proposition was laid before the House to consider laws to be sent to the Proprietary. Leonard Calvert advised that a committee should be selected to prepare a draft and report to the House when they were ready, the members in the interim to have time to attend to their private concerns. The proposal was favorably received and a committee of five was chosen out of a candidature of ten members. It is worthy of note as it gives evidence of the high esteem in which Captain Cornwaleys was held in the House, that he received fifty-four votes—the highest number cast for any of the successful candidates. Captain Evelin received forty-eight; Captain Wintour, forty-five; Governor Calvert, thirty-eight; and Mr. Justinian Snow, thirty-one.¹² The House then voted to adjourn, to meet again on the 8th of February. As the Court was to meet in the interval, the Privilege of Parliament was suspended so that there might be no obstruction to the course of justice.

When the Assembly reconvened, the committee reported that the laws prepared by the proprietor should be again propounded since there appeared to be a general misunderstanding among the freemen regarding their import. The

¹¹ *Ibid.*, p. 9.

¹² *Ibid.*, p. 10.

House agreed to the decision, first adopting an order that all bills brought up should be read three times on as many different days before being voted upon. Then the draft of laws was read through the second time as well as twenty bills proposed by the committee, which were read the first time. Cornwaleys then asked that it be put to vote whether these laws at the third reading should be voted upon singly or the whole body together. It was decided by a vote of thirty-seven to thirty-two in favor of voting upon them separately.¹³ This vote seems to have disposed of his Lordship's code, for no attempt appears to have been made to bring it to a third reading.¹⁴

In the afternoon, when the members had assembled, the President announced that he thought fit to adjourn the Assembly again, for a longer time, till the laws which they would propound to the Lord Proprietary were ready, which some of the members could take care of, while the others would have leisure to attend to their own concerns.

Cornwaleys immediately made answer that they could not spend their time in any business better than in that which concerned the good of the colony. Another member demanded to know the reason for the adjournment and declared that the members were willing to leave their various occupations to attend to public business. Governor Calvert then replied that he was accountable to no one for his resolution to adjourn the session.

Then Thomas Cornwaleys made a motion that at least a committee should be appointed to take charge of the preparation of the laws, till the House met again. To this, the body agreed and fixed upon a committee of three. Six candidates were proposed. The result of the choice of the members showed that Captain Cornwaleys received fifty-six votes; Governor Calvert, forty-six; and Captain Evelin, forty-four. After this action, the President adjourned the House till February 26th, after the privilege of parliament was again revoked.

¹³ *Ibid.*, p. 11.

¹⁴ Streeter, *op. cit.*, p. 137.

Governor Calvert's decision to adjourn the Assembly on this occasion without assigning any reason seemed rather abrupt and ill-timed. But the Governor had excellent reasons that prompted him to take such action. The state of things in Kent Island at the time demanded his presence there to settle matters. He deemed it wise to keep his intention secret to assure the better success of his expedition, the account of which has been related in the preceding chapter.

In the absence of Leonard Calvert, the Assembly had been convened on schedule by Secretary Lewger, acting for the Governor. But it merely met to adjourn to meet again on March 5th. Owing to the Governor's being still absent, adjournment was ordered till the 12th of March. On that day, the President again occupied the chair. Cornwaleys was also at his post of duty as the faithful aid and counsellor of the Governor.

The main business of this session of the Assembly was rapidly pushed forward. Various measures were brought before the legislative body and passed. Among them might be mentioned in particular an act "for capitall felonies," from one part of which Cornwaleys dissented; the other, an act "for support of the Lord Proprietor" was passed but "denied by the Captain and three others."¹⁵

On March 24th, the last day of the civil year according to reckoning in use at the time, the members assembled. "The laws as they were faire ingrossed were read in the house." This procedure consumed the time of the morning and afternoon sessions. After the laws had been read they were signed by the Governor and the rest of the House. The Assembly came to a close with this meeting.¹⁶

The year 1638 proved, in many particulars, one of great trial for the Maryland colonists. Not the least of these was the prevalence of disease which raged in the Province around that time.¹⁷ During the course of the epidemic, the mis-

¹⁵ *I—Archives*, p. 22.

¹⁶ *Ibid.*, p. 23.

¹⁷ Streeter, *op. cit.*, p. 146.

sionaries, of whom there were four, all of the Society of Jesus, worked indefatigably to bring to the stricken the consolations of religion. Among those who died during the scourge, were Jerome Hawley, the friend and fellow-Councillor of Cornwaleys, of whom we shall speak later; Father Knowles and Brother Gervase of the Society of Jesus.¹⁸

During this eventful year, Cornwaleys' ability and faithfulness to duty were eminently proven in the varied offices he was called upon to perform for the good of the Province. The confidence of the Proprietor in appointing him adviser to his brother was not misplaced. The reliance of the people on his integrity and business tact was manifested in his selection on numerous occasions for arbitrations and the settlement of estates. The estates administered by the Captain were those of John Saunders,¹⁹ Jerome Hawley²⁰ and Thomas Cullamore.²¹ The Governor's appreciation of Cornwaleys' military skill was evidenced by requiring his services in the expedition to Kent Island. The confidence of Calvert was shown in the Captain's administrative ability when he was appointed on May 27, 1638, Deputy Governor of the Province during Calvert's absence in Virginia.²² "As a legislator," says Streeter, "he had proved his firmness, and his single purpose to act only for the public good, in the course of the session (of the Assembly) which ended in March; and his impartiality and superiority to mere religious prejudices were admirably displayed in his investigations into the case of the Protestant servants of William Lewis, in July of the same year."²³

The result of the trial here referred to was this. Two Protestant servants of William Lewis were accused by him before Cornwaleys of having drawn up a paper to band the

¹⁸ Cf. Hughes, *The History of the Society of Jesus in North America*, Vol. I, p. 109, *Documents*; Vol. I, p. 336, *Text*; Foley, *Records of the English Province of the Society of Jesus*, Vol. III, pp. 367-8; Streeter, *op. cit.*, p. 146.

¹⁹ IV—*Archives of Maryland, Court*, p. 14.

²⁰ The administration of Hawley's estate will be dealt with in the chapter on Hawley and Cornwaleys.

²¹ IV—*Archives*, pp. 39, 74 *et seq.*, and 102.

²² III—*Archives of Maryland, Council*, p. 74.

²³ Streeter, *op. cit.*, p. 147.

Protestants together for the purpose of petitioning Governor Harvey and the Council of Virginia, to send to St. Mary's, and demand the surrender of Lewis to be proceeded against as a traitor to England, on the charge of having spoken disrespectfully of the clergy of the Established Church, and that he had forbidden his servants to read the authorized publications of divines of the same Church. The Captain took up the affair at once and the subsequent proceedings of the case proved that the Protestants could get redress in Maryland without having recourse to any tribunal beyond her confines.

When Cornwaleys had heard this part of the story, he sent for Secretary Lewger, and called in Robert Sedgrave and Francis Gray, the parties principally compromised in Lewis' charge. Sedgrave admitted that he had a paper which he had prepared and given to Gray who, even then, had it with him. This was turned over to Captain Cornwaleys. The document was an appeal to persons not named, accusing Lewis of reproaches against the ministers of their religion, of forbidding his servants to read any book relative to their religion and of trying to win over ignorant persons by craft to the Catholic religion. They therefore besought those who had the power to stop these abuses on the part of Lewis. It was found that the object of the paper was to induce some of the freemen to petition the Governor and Council for redress of their grievances.

On Tuesday, July 3, 1638, the parties concerned with their witnesses, were summoned before Governor Calvert, Captain Cornwaleys and Secretary Lewger, sitting as a Court. Sedgrave admitted that he had drawn up the paper and given it to Gray. They were on their way to the chapel on the preceding Sunday when Cornwaleys called them and interrogated them on the matter. Gray admitted his intent of giving it to certain freemen for presentation to the Governor.

Examination of the witnesses proved that the two servants had been reading a book in which the Pope was termed anti-Christ, and the Jesuits, anti-Christian ministers. Lewis had come upon them whilst thus engaged. Irritated at these

harsh words, Lewis retorted that the accusations were false, that the Protestant clergymen were ministers of the devil, and that he would not have that book read in his house. Lewis offered to prove that the purpose of the paper was to combine the Protestants and to petition Harvey for aid, but, not being able to prove his contention since his witness was absent on a trading expedition, the Governor deferred the trial of Sedgrave and his associates on that charge till the witness could be produced in Court,²⁴ and thereupon called upon the Secretary to give his opinion in the case.

Lewger pronounced the accused guilty of an offensive and indiscreet speech in calling the author of the book in question a minister of satan; of very offensive speech in calling Protestant clergymen the ministers of the devil; and to have gone to excess in forbidding what was allowed to be read by the State of England, but he acquitted him of the accusation to have or use Protestant books in his house. Since these offensive speeches and his other unseasonable disputation on religious topics tended to the disturbance of the public peace and were in violation of a public proclamation put forth to prohibit such disputes, he sentenced Lewis to pay a fine of five hundred pounds of tobacco to the Proprietary, and to remain in the sheriff's custody until he found security for his good behaviour in these matters for the future. The Captain concurred substantially with this opinion and the Governor entirely. Thereupon the security was given.²⁵

The incident of the trial of William Lewis and its outcome is indeed very insignificant in itself, nevertheless it shows that liberty of conscience in the colony of Maryland was not a dead letter in the legislation of the Province. When the law was enacted forbidding religious disputes cannot be definitely stated. Browne is of the opinion that it was enacted in the First Assembly, the records of which, as stated before, have been lost.²⁶

²⁴ Whether the trial of Sedgrave and his associates ever took place cannot be stated as no record of it is to be found in the *Proceedings of the Provincial Court*.

²⁵ IV—*Archives*, pp. 35–9; Streeter, *op. cit.*, p. 232; Russell, *Maryland the Land of Sanctuary*, pp. 126–7.

²⁶ Cf. V—*Archives of Maryland, Council*, Preface, p. 1.

CHAPTER VII

CORNWALEYS AND THE JESUITS

Shortly after the dissolution of the Second Assembly, three letters were sent to Cecilius Calvert. The first of these is from Father Thomas Copley, and is dated April 3, 1638; the second is from Captain Thomas Cornwaleys, and is dated April 6; and the third from Governor Leonard Calvert, dated April 25.¹ These letters probably reached the Lord Proprietary at the same time that the revised code of laws sent over after the sessions of the Assembly. The *Archives of Maryland* give only the titles of the laws passed at the Second Assembly. However, from these letters, much information is to be had of the content of the code.

In the letters of the missionary, the Captain and the Governor, different opinions are expressed on the code, in accordance with the views the different parties concerned, took of the same. Calvert writes: "The body of lawes you sent over by Mr. Lewger I endeavored to have had passed by the assembly at Maryland but could not effect it, there was so many things unsuteable to the peoples good and no way conduceing to your proffitt that being they could not be exempted from others which they willingly would have passed they were desireous to suspend them all, the particlar exceptions which were made against them Mr. Lewger hath given you an account of in his dispatches to you: others have been passed in the same assembly and now sent unto you which I am perswaded will appear unto you to provide both for your honor and proffitt as much as those you sent us did."²

Father Copley's sentiments are couched in the following language: "Touching the lawes which your lordshipe sent, I am told that they would not be excepted and, even the Governor, and Mr. Lugar said once to me, that they were not fitt for this Colonye. for myne owne parte, seeing noe

¹ The letters referred to are to be found in *The Calvert Papers*, No. 1, following each other in order on pp. 157, 169 and 182 respectively.

² *Calvert Papers*, No. 1, pp. 189-190.

service that I could doe your lordshipe therein and many inconveniences that I might runne into by intermeddlinge, I never soe much as rede them nether doe I yet know what they contained; for the temporall providence I left my selfe to your lordshipe and for matter of conscience, I supposed that your lordshipe had taken good advise what occasion then could I have to intermeddle about them? The lawes which now are sent to your lordshipe I never knew nor saw till even now, that they weare ready to be sent to your lordshipe. And there being hast to send them, I only goot a hasty vew of them. Yet diverse things even in that hasty reeding occured to me, which I conceaveed requisite to acquanite you with all, leaving them to your lordships more serious consideration.”³

Cornwaley's letter also voices criticism of both codes. He writes: “Nor were it difficult out of the Lawes sent over by your Lordship, or these that are from hence proposed toe you, toe finde Just grounds for toe feare the Introdusement of Lawes prejuditiali toe oure honors and freedome witnes that on[e] Act whereby wee are exposde to A remediles Suffering of all Disgraces and Insolensyes that eyther the Pastion or Mallis [passion or malice] of Suckseedeing Governors shall please toe put upon us, with out beeing permitted soe much as A Lawfull defence for the secureing of Life or reputation though never soe unjustly Attempted toe be taken from us, with out forfeyteing the same and all wee have to boote. This and many other Absurdetyes I doubt not but your Lordship will finde and Correct upon the peruseall of oure learned Lawes.”⁴

The body of laws sent over to Lord Baltimore after the Second Assembly were subjected to criticism by a clergyman and a layman. In the case of the layman, Captain Cornwaleys, the objection to the code received all the more weight since it emanated from such an important personage as one of the Governor's Councillors. The laws were criticised

³ *Ibid.*, pp. 158–9. It is to be noted that the missionaries were excused from attending sessions of the Assembly, cf. *I—Archives of Maryland*, Assembly, p. 5.

⁴ *Calvert Papers*, No. 1, p. 173.

under a double aspect as touching lay affairs as well as spiritual.⁵

As has been stated above, much of the content of this code submitted by the Second Assembly must be gleaned from these letters. The titles of the various acts as recorded in the minutes of this Assembly help us to identify the separate topics spoken of in the letters, and give us a clearer understanding of the laws in question.

Father Hughes has summed up the code in the briefest possible way. He tells us that "of the two score laws and more, eight are about manors. They regulate the assigning of manors, the peopling and supporting of them; and, strange to say, they contain a prohibition to alienate or part with a manor. There is a law that a glebe shall be settled, or, as we learn from Father Copley, that every manor shall provide one hundred acres for the support of a pastor. There are laws about building a town, erecting a fort, planting corn, and about securing the titles to lands. There are military duties and services laid to the charge of manors and freeholds: as well as an oath of allegiance to the Sovereign . . . There are laws about the descent of land, the succession to the goods of intestates, and the probate of wills. Besides, there are criminal laws regarding capital offenses; the privilege of clergy for some capital crimes; the arbitrary punishment of enormous offenses; and a bill for the support of the Lord Proprietary."⁶

From the letters referred to we will be able to get a better understanding of the laws in themselves as well as to form an estimate of the light in which they were regarded by the writers of the same.

Father Copley intimates to the Lord Proprietor that "some here reflecting on what they have done say plainly that if they canne not live here, they canne live else where, and therfor that they care not much." He then states that others have been complaining that the Governor and Mr.

⁵ Hughes, *The History of the Society of Jesus in North America*, Vol. I, *Text*, p. 390.

⁶ *Ibid.*, pp. 390-1.

Luger "and there instruments" had secured so many proxies that they did just as they pleased without restraint. Again others questioned the validity of the laws saying that they could prove that the laws were never read thrice in the same tenor. The missionary then asks if the mere apprehension of future consequences affrights them, what will the consequences themselves do. He is of the opinion that even in the most flourishing countries Lords of manors would find laws of that stamp as he refers to in his letter burdensome.⁷

Captain Cornwaleys tells the Proprietor that he desires to see him "at peace with the first Adventurers, whoe are I perceave noe whit satisfyed with theyre Last Conditions for the Trade. Theyre harts haveing not seconded theyre hands in the agreement, but some for love some for feare some by Importunety and the rest for Company consented toe what they now repine toe stand toe, nor can I blame them for tis impossible they can be savers by it. Which made mee refuse to beare them Company, and therefore am I now the only Supposed Enemy toe your Lordships Proffitt, which I disclayme from unless there bee an Antipothy betwixt that and my Subeistance on this Place."⁸

Father White, in a letter dated February 20, 1638, speaks of a class of individuals whom he terms "relinquishers," "men who understand little of truck or trade" who were willing to sign away anything by a concordat.⁹ This concordat, in the opinion of Father Hughes, "seems to have been a subsidiary manoeuvre for handing over all rights of trade to his lordship."¹⁰

The Captain writes of the difficult conditions of trade and of the unprofitableness of raising tobacco in the following words: "I was this yeere determined toe have waighed upon your Lordship in England, and on[e] way or other toe have concluded this fateall difference about the Trade. for my Lord I may properly use the words of the Ghospell, I

⁷ *Calvert Papers*, No. 1, pp. 160-1.

⁸ *Ibid.*, pp. 173-4.

⁹ *Ibid.*, p. 209.

¹⁰ Hughes, *op. cit.*, p. 393.

cannot Digg and to Begg I am Ashamed, if therefor your Lordship nor your Country will afford me noe other way toe support the great Expenses that I have beeene and dayly am at for my Subsistans heere, but what I must fetch out of the Grounde by Planting this Stincking weede of America, I must desert the Place and busynes, which I confes I shall bee loth toe doe, soe Cordiall A lover am I of them both, yet if I am forst toe it by discourteous Injuries I shall not weepe at parting nor despayre toe find heaven as neere toe other parts as Maryland. But I will first doe my Endeavor toe Compose things soe as non shall say heereafter that I lost A right I bought soe deere through negligens or Ignorans. Other mens Imaginations are noe infallible presidents toe mee, nor will the multitude of names nor Seales, move mee toe bee a foole for Company, for what in them was only Inadvertens, non would tearm less then follery in mee, whoe might or ought toe know by experiens, that it is impossible toe Comply with the Conditions mentioned in the Lease and bee a Saver by them.”¹¹

Having considered the objections of the missionary and the Captain with regard to trade, we now turn to examine the complaints of the former to certain laws passed by the late Assembly.

“First” says Father Copley, “there is not any care at all taken, to promote the conversion of the Indians. to provide or to shew any favor to Ecclesiastical persons, or to preserve for the church the Immunitye and priveledges, which she enjoyeth every where else.”¹² Mr. Lewger is accused of defending the opinion that the Church has no privileges by divine right. The Secretary, together with others that adhere to him, seem to be resolved to bind the clergy to all laws and to make the same exactions of them as they do of other men. This official has even demanded of Father Copley, before the confirmation of the law, fifteen hundred weight of tobacco towards the building of a fort, “Whereas” writes the priest, “I dare boldly say that the whole Colony together never bestowed on me the worth of five hundred weight one would

¹¹ *Calvert Papers*, No. 1, p. 176.

¹² *Ibid.*, p. 162.

thinke that even out of Gratitude, they might free us from such kinde of taxation especially seing, we put noe taxe upon them, but healpe them gratis, and healpe them also in such a manner, that I am sure they canne not complaine.”¹³

“Secondly by the new lawe we should relinquish what we have, and then cast lotts in what place we shall choose, and if our lott proove ill, what we have already may be chosen from us and soe we may beginne the world anew, and then ether we must loose all our buildinge, all our clearing, all our enclosures, and all our tennants, or else be forced to sitt freeholders, and to pay for every hundred acres one barrell of corne whereas we are not yet in a little care to gitt bread.”¹⁴ The result of this procedure would be that though the missionaries should choose “Metapanian” first, they would lose Mr. Gerard’s manor despite the fact that they bought it at great expense. Furthermore, should this be permitted, then the Assembly can so alter their rights that no man would be sure what really was his. Besides he who could secure the most proxies could dispose of the property of others as he deemed fit.¹⁵

The next point raised by Father Copley regards military service under the provisions of which they must be trained as soldiers and provide munitions. They must have in every manor fifteen men available for service whom, during the time of service, they must maintain. “Other things we should be subjecte to by these lawes, which would be very unfitt for us.”

Under the law it is expected that every “head” plant two acres of corn. The fathers have not sufficient men to employ in planting. If they wish to comply with this law they must either turn planters themselves or else “trench” upon the statute. Under the new regime, they would not only lose their trade in beaver and corn but in the case of the latter they must ask leave to buy the corn necessary for the making of bread. And should those who have a monopoly in this

¹³ *Ibid.*, p. 163.

¹⁴ *Ibid.*

¹⁵ *Ibid.*, p. 164.

commodity or be otherwise indisposed they would be put to the embarrassment of being "at the courtesy of other men."¹⁶

With regard to the missionaries receiving lands from converted Indians, Father Copley states that, though he is resolved not to take up land except under his Lordship's title, yet the time might come when, such an offer being made toward building a house or church for the fathers, no small inconvenience might arise. With regard to this possible event, he inquires "whether any one that should goe aboute to restraine ecclesiasticall libertys in this point encurre not the excommunications of Bulla Coenae."

Under the new statutes, in every manor one hundred acres must be laid out for glebe land. Should the intention of this law be to bind them who enjoy it to be pastors, then the fathers must either become pastors themselves or in their own manor maintain pastors, both of which arrangements would be very inconvenient.

The next portion of Father Copley's letter, we prefer to give entirely in his own words. It runs as follows: "That it may be prevented that noe woman here vow chastety in the world, unless she marry within seven yeers after land fall to hir, she must ether dispose away of hir land, or else she shall forfeite it to the nexte of kinne and if she have but one Mannor, whereas she canne not alienaite it, it is gonне unlesse she git a husband. To what purpose this ole law is maid your lordshipe perhaps will see better than I for my parte I see greate difficultyes in it, but to what purpose I well see not."¹⁷

In the order set down for the payment of debts, the Proprietary is cautioned to ponder it well. Though Father Copley confesses he has not examined it very carefully he doubts not that "it runneth not right with that which is ordinarily prescribed by Casuits as just."

"In the thirty-fourth law amonge the Enormous Crime One is Exercisinge jurisdiction and authoritye, without lawfull power and commission dirived from the lord pro-

¹⁶ *Ibid.*

¹⁷ *Ibid.*, 165.

prietarye." Hereby, according to the missionary, even by Catholics a law is provided to hang any Catholic bishop that should come to Maryland as well as any priest, if the exercise of his functions be interpreted as jurisdiction or authority.¹⁸

Father Copley then cautions Lord Baltimore that before he does anything in the matter of these laws, he ponder well the *Bulla Coenae*; secondly, that in things concerning the Church, he should take good advice from church authorities and finally, that he be careful not to "trench upon the church and where any thinge may seem to trench, to use fitt prevention against the bad consequence."¹⁹

Thomas Cornwaleys also writes a word of warning. He says: "I beseeche your Lordship for his Sake whose honor you and wee doe heere pretend, and whoe at Last must Judg with what Sincerety wee have discharged it, That you from whose Consent they must receave the bindeing fors of Lawes, will not permit the least Clawes toe pas that shall not first bee thoroughly Scand and resolved by wise Laerned and Religious Divines toe bee noe waise prejudicall toe the Immunettys and Priveledges of that Church which is the only true Guide toe all Eternall Happines, of which wee shall shew oureselves the most ungratefull members that ever shee nourished, if in reuiteall of those many favors and Blessings that shee and her devote Servants have obtayned for us, wee attempt toe deprive her of them, with out paying such A Price as hee that Buyses it will repent his Bargayne. What are her Greevances, and how toe bee remedyed, you will I doubt not understand at Large from those whoe are more knowing in her rights and Consequently more sensyble of her Injuryes then such an Ignorant Creature as I am. Wherefore now all that belongs toe mee, is only toe importune your Lordship in whose powre tis yet toe mend what we have done Amis, toe bee most Carefull in preserveing his Honor whoe must Preserve both you and Maryland. Perhaps this fault hath beene permitted in us as a favoure toe your Lord-

¹⁸ *Ibid.* Father Copley's fears as to Lord Baltimore's usurping ecclesiastical jurisdiction are unfounded as no attempt was made by either himself or the Assembly to control the jurisdiction of the clergy.

¹⁹ *Ibid.*, p. 166.

ship whereby you may declare the Sincerety of your first pyouse pretence for the Planting of this Province, which will bee toe much doubted of if you should take Advantage of oure Ignorant and uncontionable proceedeings toe Assume more than wee can Justly give you. And for A Little Imaginary Honor, throw your self us and your Country out of that protection which hath hitherto preserved and Prospered that and us beyound Humaine Expectation; which noe doubt will bee continued if wee Continue as we ought, toe bee, I never yet heard of any that Lost by beeing bountiful toe God or his Church, then let not your Lordship heare toe bee the first. Give untoe God what doth belong toe him, and doubt not but Cesar shall receave his due. If your Lordship thinks mee toe tedious in A discourse not proper toe the Part that I doe Act, my Interest in the whole Action must excuse mee, Sylence would perhaps make mee Supposed Accessary toe these dangerous Positions, which is soe far from my Intention, that as I now declare toe youre Lordship and shall not feare toe doe the like toe all the world if it bee necessary, I will rather Sacrifice myself and all I have in the defence of Gods Honor and his churches right, then willingly Consent toe anything that may not stand with the Good Contiens of A Real Catholick. Which resolution if your Lordship doe not allsoe make good by A Religious Care of what you send over Authorised by your Consent, I shall with as much Convenient speede as I can with draw myself, and what is Left of that which I brought with mee, out of the Danger of beeing involved in the ruein which I shall infallibly expect. Your Lordship knowes my security of Contiens was the first Condition that I expected from this Government, which then you thought soe Inocent as you Conceaved the Proposition alltogether impertinent, But now I hope you will perceave the Contrary.”²⁰

From this appeal of Captain Cornwaleys to the Proprietor, we learn that he was very solicitous about the laws passed by the last Assembly. In the last chapter several instances

²⁰ *Ibid.*, pp. 171–3.

were recorded where he objected to certain enactments. Since the minutes of that Assembly have not come down to us we are unable to know just what opposition he raised to the legislation of the Assembly. On March 16, there were many of the laws passed which met with no opposition and the Captain was present at the session.²¹ Again on the last day of the Second Assembly, it is recorded that the Governor signed the laws as well as the rest of the House, Cornwaleys being present on that occasion as well. But the dissatisfaction, as has been seen, was by no means confined to Cornwaleys. Father Copley has told us, as before stated, that many complained about the proxies of Calvert and Lewger and of the manner in which the laws varied at each reading. We are led to believe that the Captain, realizing this state of affairs, was content to leave the matter as it then stood, resolving to write a letter to the Proprietary voicing his condemnation of the laws to which he objected and trusting to Lord Baltimore's good judgment and honesty in the case for redress. That the Captain was not always of one mind with Governor Calvert is also evident from the words of a letter written by Leonard Calvert to his brother. He says that "it hath been his fortune and myne to have had some differences formerly yet in many things I have had his faithfull assistance for your service and in nothing more then in the expedicion to Kent this last winter."²² These differences of which Calvert speaks may have been with regard to the laws.

After Father Copley had addressed his warning to the Lord Proprietor, he asked for certain privileges to be granted to him by a private order as long as the government remained Catholic. They are as follows: "The first that the church and our houses may be Sanctuarie. The second that our selves and our domestique servants, and halfe at least of our planting servants, may be free from publique taxes and services, And the rest of our servants and our tennants,

²¹ *I—Archives*, p. 20.

²² Letter of Leonard Calvert to the Proprietary, dated April 25, 1638, *Calvert Papers*, No. 1, p. 190.

though exteriorly the doe as others in the Colony, Yet that in the manner of exacting or doing it, privatly the custome of other catholiques countrye may be observed as much as may be that catholiques out of bad practice cumme not to forgit those due respects which they owe to god and his church.²³ The third is that though in publique we suffer our cause to be heard and tryed by the publique magestrats, yet that in private they know, that they doe it but as arbitrators and defendoris of the church because Ecclesiasticall jurisdiction is not yet here settled. The fourth. That in our owne persons and with such as are needfull to assiste us, we may freely goe, abide and live amone the Savages, with out any licence to be had here from the Governor, or any other. lastly. that though we relinquish the use of many ecclesiasticall priviledge when we judge it convenient for satisfaction of the state at home, yet that it be left to our discretion to determine when this is requisite; and that we be suffered to enjoy such other priviledges as we may with out note.²⁴ And touching our temporaltyes. first I beseech your lordshipe that we may take up and keepe soe much lande, as in my former letters I acquainted your lordshipe to be requisite for our present occasions, according to the first conditions which we maid with your lordshipe . . . In the trade I shall requeste that your lordshipe performe soe much, as that we may employ one bote whensoever we shall not otherwyse use it . . . I desire lykwyse from your lordshipe a free Grante to buy corn of the Indians without asking leave here, for endeed It will be a greate pressure to eate our bread at there curtesye, who as yet I have found but very little curtous."²⁵ At the beginning of Father Copley's letter, Lord Baltimore wrote "heerein are demands of very extravagant priviledges."

Whatever opinion one may form as to the justice of the claim of the missionaries, or of the rights of Lord Baltimore, two considerations must not be lost sight of. In the first

²³ Lord Baltimore here notes in his own handwriting on the margin of the letter: "All their tenants as well as servants he intimates heere aought to be exempted from the temporall government." *Calvert Papers*, No. 1, p. 166.

²⁴ *Calvert Papers*, No. 1, pp. 166-7.

²⁵ *Ibid.*, pp. 166-8.

place, the generous, self-sacrificing conduct of the Jesuit missionaries, precludes the conclusion that the Fathers were actuated by mere mercenary motives. Their one object was to enable them more effectively to further their Apostolic work in extending the kingdom of Christ. Davis, an Episcopalian, writing of them, says: "Their pathway was through the desert; and their first chapel, the wigwam of an Indian. Two of them were here, at the dawn of our history: they came to St. Mary's with the original emigrants; they assisted, by pious rites, in laying the corner-stone of a State; they kindled the torch of civilization in the wilderness; they gave consolation to the grief-stricken pilgrim; they taught the religion of Christ to the simple sons of the forest. The history of Maryland presents no better, no purer, no more sublime lesson than the story of the toils, sacrifices, and successes of her early missionaries."²⁶

"The impartial observer of events will, in the second place," says Russell, "remember that Lord Baltimore was a Catholic whose sincerity cannot be questioned. Had he, like his grandson, renounced his faith, most, if not all, the difficulties and dangers which menaced his colony would have disappeared, and his success in every worldly way would have been assured. He held fast to his Church at the cost of enormous sacrifices, and such sacrifices are proof sufficient of the genuineness of his belief."²⁷

We have stated in the beginning of this chapter that these letters touched spiritual matters and lay or temporal affairs. What the fate of the code was will be seen in a subsequent chapter. We can therefore touch briefly upon the relations of Lord Baltimore and the missionaries. This matter forms a part of the biography of Thomas Cornwaleys in so far as he was on the side of the fathers as is abundantly proven by his letter. It must be remembered that no matter what differences may have arisen between the Proprietary and the Jesuits, this in no wise weakened his

²⁶ Davis, *The Day-Star of American Freedom*, pp. 159-60.

²⁷ Russell, *Maryland the Land of Sanctuary*, p. 151.

faith in the Church for which he was ever prepared to make heroic sacrifices.²⁸

Under date of April 4, 1634, shortly after the arrival of the colonists in Maryland, a decree of Propaganda states, to use the words of Father Hughes, "that, at the instance of the 'English clergy,' whomsoever that term may designate, the Sacred Congregation judged the proposal of sending a mission to Maryland, in the premises, as a measure highly opportune; and it ordered 'the agent of the same clergy' to name a prefect and missionaries, or to have them named by the French Nuncio, who in all cases was to report on the fitness of the men designated."²⁹ For some years nothing seems to have been done in the matter. However, in 1641, in accordance with the wishes of Lord Baltimore, Mgr. Rosetti, Nuncio in Belgium, was instructed by Propaganda to send "information about the said island (Maryland), the Catholics there, secular priests in England fitted for the mission, and especially one more prominent and learned, who might be appointed prefect."³⁰

Monsignor Rosetti, afterwards Archbishop of Tarsus, after a visit to England in 1641, sent his report to the Sacred Congregation, together with the names of fourteen priests who were deemed fit to be sent to the mission field of Maryland. The first name on the list is that of Rev. Dr. Britton, who might be made Prefect.³¹ After faculties had been dispatched for the new missionaries to Father Philips, the Queen's confessor, a memorial on behalf of the Jesuits was addressed to the Holy Office complaining against the attitude of Lord Baltimore and protesting against the sending of the Secular clergy to Maryland.³²

In February, 1642, having received the Memorial, the Congregation of the Holy Office ordered the faculties of the Secular clergy suspended and the mission put off "until such time as this Sacred Congregation shall have examined some

²⁸ *Ibid.*, p. 156.

²⁹ Hughes, *op. cit.*, p. 333.

³⁰ *Ibid.*, Hughes quoting Propaganda Archives, p. 495.

³¹ *Ibid.*, pp. 493-8.

³² *Ibid.*, pp. 506-15; also Russell, *op. cit.*, pp. 152-3.

points, and determined that which is best to do for the greater service of God ever blessed, and for the propagation of the holy faith.”³³ In the meantime the clergy appointed to go to the colony were impatiently awaiting their faculties. Not knowing entirely the causes of the delay, they were minded to proceed at first in virtue of their ordinary faculties for the royal dominions of Great Britain. However, Rosetti dissuaded them from proceeding in this manner.³⁴ Meanwhile Lord Baltimore, finding his purpose of sending Secular missionaries thwarted, decided that the Jesuits also should not go, while at the same time, Leonard Calvert endeavored to prevent the missionaries actually in the colony from leaving.³⁵ A deadlock resulted. To overcome the difficulty the General of the Jesuits wrote to Father Edward Knott, the Provincial of the Society of Jesus in England on November 22, 1642: “I myself will see that faculties are asked for them from the (Cardinal) Protector, to buy off vexation. If they are obtained I will let your Reverence know.”³⁶

Whether this arrangement of the General was agreeable or whether the suspended faculties were granted to the Secular Fathers, we cannot say. However, two Secular priests, Fathers Gilmett and Territt, set sail sometime about November, 1642, on different vessels.³⁷ The Proprietary, in a letter dated November 21, 1642, commends the Fathers to the Governor’s care; in another letter written from Bristol, on November 18, 1643,³⁸ further instructions are given to look after the welfare of these priests.³⁹

In writing of Father Copley’s relations with Lord Baltimore, Russell considers the characters of this missionary and Secretary Lewger. He says: “Copley and Lewger were men of strong individuality, powerful will and extraordinary tenacity of purpose, and their clash of temperaments probably resulted from the manifest similarity of their

³³ Hughes, *op. cit.*, citing Vatican Archives, p. 520.

³⁴ *Ibid.*, p. 524.

³⁵ Russell, *op. cit.*, p. 154.

³⁶ Hughes, *op. cit.*, p. 532.

³⁷ *Calvert Papers*, No. 1, p. 212.

³⁸ *Ibid.*

³⁹ III—*Archives of Maryland*, Council, p. 143.

natures.”⁴⁰ Again he says: “A meeting of these two indomitable natures could hardly make for ‘peace and good will,’ yet we cannot doubt of their sincerity and self-sacrificing zeal.”⁴¹

Regarding the champions of either side, whether of the Proprietary or the Jesuits, much can be said. The missionaries asked at most, special privileges, but we cannot say that they begrudged freedom of conscience to other religionists. Moreover the privileges they asked for, were such as the clergy enjoyed in Catholic England under Magna Charta until the time of the Protestant separation. “The world at large,” says the author of *Maryland the Land of Sanctuary*, “had hardly at that time conceived an idea of such a state of affairs as obtains now in the United States. We, today, are accustomed to the present relations of Church and State; we can see its practicability, and we can appreciate its advantages. It was then an untried novelty in civil government. To most people there appeared no middle way between favoring one church or another. The devoted, self-sacrificing priests, zealous for the salvation of souls, . . . shut out from the rest of the world, were quite naturally in no position to take such a view of the situation as presented itself to Lord Baltimore. It was clear to him as to many other far-seeing statesmen that the time was come when the religious and political conditions of the world demanded religious freedom. In this respect, he and the other colonists who upheld his policy were far in advance of their times.”⁴²

⁴⁰ Russell, *op. cit.*, p. 158.

⁴¹ *Ibid.*, p. 159.

⁴² *Ibid.*, pp. 172-3.

CHAPTER VIII

JEROME HAWLEY AND THOMAS CORNWALEYS

Among the first colonists who arrived in Maryland, was the fellow Commissioner of Thomas Cornwaleys, Jerome Hawley, a friend of the Captain. Hawley was a man of education and refinement. In appointing him as one of the Commissioners, Lord Baltimore proved that he placed confidence in his talents and good judgment. "He embarked with the Governor," says Streeter, "participated in the dangers and trials of the voyage, aided in the first reconnoisance of the country on the Potomac, and was one of those who, with appropriate civil and religious ceremonies, united in taking possession of the ground selected as the site of the first settlement, and christening it by the name of St. Mary's."¹

Hawley became treasurer of Virginia early in 1637.² While performing the duties incumbent on him in virtue of this office, he continued to act as Commissioner and Counselor of Maryland. In the administration of his duties in Virginia, Hawley drew upon himself the criticism of Secretary Kemp, who wrote a letter of complaint against him to the Proprietary of Maryland. Governor Calvert also wrote to his brother relative to the same matter. Cornwaleys was cognizant of the disfavor into which Hawley had fallen and wrote a defense of his friend to Cecilius Calvert.

Kemp wrote on April 25, 1638, to acquaint Lord Baltimore of how matters stood upon the arrival of Hawley in Virginia as Treasurer. He states that such was the general dislike of the inhabitants of Virginia against Hawley that they would have removed him from office by an act of Assembly had not the Governor and Counsel curbed their proceedings. When Hawley assumed his office, he gave them no further account of the extent of his powers than those expressed in his commission. He alleges that he enjoyed the same powers

¹ Streeter, *Papers relating to the Early History of Maryland*, p. 109.

² Steiner, *Beginnings of Maryland*, p. 16 (note).

which former Treasurers had, and these were expressly vested in him for receiving quit rents. After the Assembly, the new Treasurer produced his "Instructions" wherein fines and all other perquisites to the King were expressly "within the Lymitts of his commission, as also all Grants of Land were first to passe his appbation, [approbation], and allowance and upon what tearmes they were to passe was left to his discretion." "In which particulars," Kemp remarked, "the Governor and Counsell had just cause to doubt what his Intendments were."³

The Secretary furthermore complained that the Governor's main subsistence was taken away. All Governors would therefore be obliged to demand means from the people since the pension of the King would suffice to maintain that official in a manner proper to his dignity. With regard to grants of land, he says that the terms have always been certain as given by the "Antient Charter" and have been successively confirmed to the Governor and Council. The sudden change, consequently is a cause of distraction to the people as well as a source of discouragement to those "who serve his matie here in the places of Governor and Counsell."⁴

Kemp then lays before Lord Baltimore some of his own grievances. "The Office and benefit of the Invoices" which formerly belong to the Secretary now pertain to the Treasurer. He then states that he is informed that Hawley's purposes are to gain the profits of the "Pattents," and to have the keeping of the seals. What fees are left to the Secretary will accordingly not clothe and pay one clerk yearly. He then voices his grievance that though his labor is doubled, he does not receive the same allowance as former Secretaries.⁵

The question logically arises as to the reasons why Secretary Kemp addressed this complaint to Lord Baltimore. The reason is found in the conclusion of his letter. "Why I have taken the boldness to trouble yor Lorpp wth this

³ *Calvert Papers*, No. 1, p. 153.

⁴ *Ibid.*, pp. 153-4.

⁵ *Ibid.*, p. 154.

Relation, without the Least Intimation heerein to any other, with favor I am thus induced. Because I receive from undoubted Information that the effect of Mr. Hawlye his business proceeded from yor Lorpps favour in his behalf. I am from my owne assurance as confident that yor Lorpps intents had noe aime eyther of publiq greivance, or lessening those whose service you may please in any tryall to command. All wch therefore I humbly tender to yor Lorpps consideration.”⁶

Writing to his brother, on April 25, 1638, Governor Leonard Calvert makes certain accusations against Jerome Hawley. “I am informed,” he says, “tht upon occasion of discourse given before Sr Jhon Harvey Mr. Jemp and Mr. Hawley by Mr. Boteler whether Palmers Ile were within the Province of Maryland or no Mr. Hawley did so weackly defend your title to it that Boteler grew more confident of proceeding in planting it for his Brother Cleyborne and I have some reason to thinck that Mr. Hawley did willingly let your title fall for some designe sake of his owne upon trade wth the Sasquahannoughs wch he might conceive better hopes to advance by its depenice on Virginia then on Maryland.”⁷

The Governor then goes on to say that when he held a Council meeting at St. Mary’s concerning the expedition to Kent Island with the purpose of putting a stop to the planting of the Island by Boteler and Smith, Hawley “earnestly diswaded it” by bringing up every reason in his power to make Lord Baltimore’s title doubtful and to show that it would be unlawful to hinder these men from planting there. Hawley did all this despite the fact that the argument was brought forth that their being there would be most dangerous to the Marylanders since Boteler and Smith would incite the Indians against them and might even furnish the savages with weapons against them. If the expedition were given up, all hope of a treaty with the Indians would be set at naught.

The letter then proceeds as follows: “I beleeve the faire promises wch he made you in England when you procured

⁶ *Ibid.*, pp. 154–5.

⁷ *Ibid.*, pp. 187–8.

the prefermet he hath in Virginia how usefull he would prove to your Colony by it, will never be performed by him for nothing moveth him but his owne ends and those he intendeth wholly to remove from Maryland and place them in Virginia, and intendeth shortly to remove his wife and family thither, I am sorry it was your ill fortune to be a meanes of so much good to him who is to ingrateful for it.”⁸

Calvert then informs his brother that Hawley disclaims that he ever sought the aid of Lord Baltimore or that he ever had any designs of procuring the Proprietary’s influence toward securing this position for him. This information, the Governor tells Cecilius Calvert, was communicated to him by Cornwaleys.⁹

Captain Cornwaleys was fully aware of the disfavor into which his friend had fallen with Governor Calvert. That the Captain did not believe all the accusation against Mr. Hawley is apparent from his letter written on April 6, 1638.¹⁰ In it he utters a strong defence on behalf of his fellow Counsellor, as follows:

“Newes I know yr Lop lookes for non but what concernes the Commonwealth of Maryland in wch what I am defective I doubt not but yr Secretary will Supply whoe is as quick as I am Slow in writeing, and therefore in that part A verry fit Subject for the place hee bears, And if hee proves not tooe Stiff A maintayner of his owne opinions, and Somewhat tooe forward in Sugiesting new businesses for his owne imployement, hee may perhaps doe God and yr Lop good Service heere I should be Sorry toe Change Mr. Hawley for him whoe I perceave stands not soe perfect in yr Lops favoure as I could wish him wch perhaps some takeing Advantage at, and willing for toe fish in trobled waters, may by discourteous proceedeings towards him make him weary of unprofitable Maryland, And fors him toe A Change more for his peace and Proffit. As Doubtles virginia would bee toe him if he

⁸ *Ibid.*, pp. 188–9.

⁹ *Ibid.*, p. 189.

¹⁰ This letter of Thomas Cornwaleys is the same one quoted extensively in the preceding chapter. Owing to the diversity of the topics, it was deemed best not to consider the document in any one chapter, but rather to use the information as demanded by the various events described in different chapters.

make good what hee hath undertaken, of wch I see no other Likelihood if hee have not left his worst Enemies behinde him, Among wch number I am Sorry toe see such probabillety of yr Lops beeing on as I perceave there is. What reasons you have for it is unknowne toe mee, nor doe I presume toe Judg where the fault is, All that I wish as A Poore friende of his, is that yr Lop rightly understood him for from thens I verrely beleeve doth flow those Jealousyes that I preceive are risen betwixt you, wch beeing increast by misapprehentions of Contentious Spirits must certaynely if not in time prevented by some Charitable reconciliacion breake forth with such vvolens as will endanger the noe little prejudice of on or both of you. I Assure yr Lop did I know any Just Cause toe Suspect his Sincerety toe Maryland, or the designe wee came upon, I should not bee soe Confydent of his Innocence in deserving toe ill from you or this Place. I cannot my Lord Suppose A little verball vehemensy uttered in the defens of A mans owne Supposed right, Suffitient toe Conclude him guilty of looseing all former respects toe greater obligations, wch if it bee soe greate A Crime I am toe seeke where I should finde on that would bee free when he Supposeth his right unjustly questioned. I must confes I cannot pleade not guilty, and yet I doubt not but my greatest Enemies doe really beleeve mee for toe bee as I am A most unfayned friende toe Maryland. And soe I am confident will Mr. Hawley Apeere if you will give him time and ocation for toe manifest it, and not by vvolent discourses upon uncertain suppositions fors him toe Change his good intentions yr Lop knowes how many difficultyes hee past in England, nor hath hee beene exempt from the like in these parts, and therefore hee is not too bee blamed for laying howld of some probable way toe repayre his many misfortunes, there beeing noe Antipothy betwixt that and the continueing of his respects untoe yr. Lop. Well may the dischargeing of the office hee hath undertaken invite him sometimes toe Looke towards Virginia, but certaynely not with prejudice toe Maryland, from whens hee receaves the greatest Comforts that the

World affords him both for Sowle and body the on from the Church the other from his wife. whoe by her comportment in these difficult affayrs of her husbands, hath manifested as much virtue and diserestion as can bee expected from the Sex she owes, whose Industrious huswifery hath soe Adorned this Desert, that should his discouragements fors him toe withdraw himself and her, it would not A Little Eclips the Glory of Maryland.”¹¹

Jerome Hawley also expresses a word in self-defence in a letter written from Virginia on May 8, 1638, to Sir Francis Windebanke. At the close of his letter he writes: “Since my coming to the place of Treasurer, I have decerned some under-hand oppositions made against me, but littell hathe appeared in publick, therefore I can not particularly laye it to any man’s charge. And because I finde that it chiefly aims at the hindering me in making any benefitte of my place (whereof I assure your Honour I have not yet made the value of five pound towards my charges) I doe therefore make it my humble sute unto your Honour that you wilbe pleased to move the King in my behalfe and procure His Majesties warrant for my fees, to the effect of this I send enclosed, which being added to your former favours, will much encrease my obligations to your Honour.”¹²

From the letters of Kemp and Calvert on the one hand, and of Cornwaleys and Hawley on the other, we realize that there are two sides to the question as in every discussion. To us, it seems that the arguments redounded to Hawley’s favour. Whether he was vindicated, we cannot tell. Streeter, in the brief biography of Hawley contained in his *Papers relating to the Early History of Maryland*, writes in reference to Hawley’s letter to Windebanke: “Within this despatch in the State Paper Office, was enclosed the form of a warrant from the king, granting to Jerome Hawley, Treasurer of Virginia, power to appoint deputies for viewing tobacco, and to receive as his lawful fee, one pound of tobacco for every hundred weight of the same, viewed by him or his deputies,

¹¹ *Calvert Papers*, No. 1, pp. 179-81.

¹² Streeter, *op. cit.*, p. 120.

but whether this was a form transmitted by the petitioner or a warrant drawn by authority of the king, in compliance with his petition, we cannot say.”¹³

Whatever may have been the result of Cornwaleys’ appeal in his friend’s behalf or of the petition addressed to Sir Francis Windebank, Jerome Hawley was soon to be beyond the harm of vituperation where the good or evil report of men matters naught. In a previous chapter, we have alluded to the sickness that prevailed during the year 1638. The fellow Councillor and friend of Cornwaleys died early in August of that year, probably a victim to the disease.¹⁴

Among the *Annual Letters* of the English Province of the Society of Jesus, in the one for that year regarding the Mission of Maryland, we read of the death of a man who was the beneficiary of the ministrations of the Fathers, and whom Father Hughes believes to have been Jerome Hawley.¹⁵ The account reads: “Several of the chief men have, through the use of the Spiritual Exercises, been formed by us to piety; a fruit by no means to be despised. In one especial case we adore the wonderful providence and mercy of God, which brought a man encompassed in the world with many difficulties, and obliged to live in Virginia constantly deprived of all spiritual aid, to promise, not long before his death, that he whould undertake these Exercises. This intention was prevented by a severe sickness which he bore with the greatest patience, fixing his mind firmly on God; and at length, having duly received all the sacraments, in a state of most unusual peace he gave back his soul to God, which had been so full of troubles and disquietudes.”¹⁶

In Hawley’s will, made at the time of leaving England with the first colonists, he had appointed residents of the mother country as his executors. Thomas Cornwaleys was, however, appointed administrator of his estate for reasons

¹³ *Ibid.*

¹⁴ *Ibid.*, p. 121.

¹⁵ Hughes, *History of the Society of Jesus in North America*, Vol. I, *Text*, p. 337.

¹⁶ Foley, *Records of the English Province of the Society of Jesus*, Vol. III, p. 371. This work contains the English version of the letter quoted. The Latin version is to be found in Hughes, *op. cit.*, *Documents*, Vol. I, Part I, p. 112.

which shall be seen below. In the records of the Provincial Court, we find the following entry:

administration of mr Hawleys estate granted to the
Captaine, mr Tho: Cornwaleys Esq &. the Inventory
to be brought in within a moneth, and the Accompt
within a twelve moneth. date 2. August 1638.¹⁷

The records contain a document from the Proprietor appointing him to this office. From it, we find that Hawley's will was dated October 20, 1633. Owing to the distance at which the three original executors mentioned in the will lived, it was deemed expedient by Cecilius Calvert to appoint Cornwaleys administrator "of the goods and chattells" of Jerome Hawley, on August 14, 1638. The Captain was ordered to exhibit to Secretary Lewger "a true and perfect Inventory of all the said goods & chattells within one moneth after the date hereof." The full account of his administration was to be made to the same official whenever he was called upon to do so.¹⁸

A memorandum was then filed "that this day came Thomas Cornwaleys Esq &c and acknowledgeth himselfe to owe unto the Lord Proprietarie of this Province and his heires one thousand pound sterling, to be levied upon the lands goods and chattells of the said Thomas Cornwaleys &c The condition of ths Recognizance is that if the said Thomas Cornwaleys shall well and truely performe the Commission of Administration of the goods and chattells of Jerome Hawley late Esq deceased, bearing date the day of August 1638 in all the severall contents thereof, wherewith the said Thomas Cornwaleys is charged in the said Commission, then this Recognizance to be void, or els to stand in full force."¹⁹

On April 20, 1639, Thomas Cornwaleys delivered to the Court the account of his administration of the goods of "Jerome Hawley late of St. Maries Esq deceased." We take the liberty of giving this account in full as found in the records of the Provincial Court. It will not be without interest as

¹⁷ IV—*Archives of Maryland*, Court, p. 39.

¹⁸ *Ibid.*, p. 41.

¹⁹ *Ibid.*

showing the amount of Mr. Hawley's estate and containing the names of some of the earliest colonists of Maryland. Furthermore it will show the financial status of some, whose debts it was deemed necessary to mark down as "desperate."

Thomas Cornwaleys debtor to the estate of Jerome Hawley as followeth²⁰

	l	s	d
to goods received, as p Inventory	849	06	9
to a debt received of Thomas Hebden	003	12	6
to a debt received of John dandie	003	13	3
to a debt received of John Wyatt	000	17	0
to a bill from Cyprian Throughgood	005	07	0
to a bill from Anthony Cotton	008	17	6
to rec of Capt: Evelin & Company, a debt of 1824 l tob:	022	16	0
	<hr/>		
	894	06	0

to desperate debts upon bills as followeth

	l	s	d
from Thomas Bradnock & Richard Purlivant; 1500 l	1		
tob	018	15	0
from william medcalfe 500 l tob:	006	05	0
from Ed: Comins & Tho: Pett, 800 l tob:	010	00	0
from Robt Philpott, and Laurence Mollock; 777 l tob.	009	14	6
from will: Coxe and John Smith, 450 l	005	12	6
	<hr/>		
	050	07	0
total	944	13	-

p contra Credr

	l	s	d
by expended for funeral charges	005	00	0
by paid the tailor for mourning clothes	003	00	0
by paid in Surgeons bills	005	00	0
by housekeeping defrayed 40. daies	005	00	0
by paid the praisers for their paines	004	04	0
by paid mr Lewger for a debt due to Tho: Cullamore	002	00	0
by paid ditto for a debt due to himselfe	001	00	0
by paid Leonard Calvert Esq for a debt due to him	001	06	0
by paid Robt Percy for wages	001	05	0
by paid John halfehead for work done	002	15	0
by paid Randoll Revell for worke	000	15	0
by paid An Smithson for wages	001	04	0
by paid 3. brels corne paid to will: Lewis	001	04	0
by paid my selfe for a debt due upon specialtie and Accompt	410	00	0
by paid to the Lord Baltemore upon judgement	234	04	4

²⁰ *Ibid.*, pp. 100-1.

	l	s	d
by paid Andrew Chappell upon judgmt	012	00	0
by paid Edward Brent for wages	015	00	0
by paid Xpofer Plunkett for wages	005	00	0
by paid John Cook for wages	009	00	0
by paid Richard Hill for wages	014	00	0
by paid Cyprian Throughgood upon judgement	005	07	0
by paid Anthony Cotton upon judgmt	015	10	0
by paid Richard Gardner upon judgmt	012	10	0
by expended in suits and Court fees	008	10	0
by so much allowed for my paines	010	00	0
by paid Capt: Evelin & company for wages of Edmond deering	002	02	0
by paid Thomas Capley. Esq in part of a debt recovered by judgmt	087	09	8
by bills of desperate debts delivered to the said mr Copyl toward further satisfaction of his debt	050	07	0
	<hr/>		
	944	13	

This account is followed by a letter from the Proprietary approving of the manner in which the Captain discharged his duties as administrator. It runs as follows:

"Cecilius Lord &c. to all xtian people to whom these pnts shall come, greeting. Whereas by or lres of Admraon bearing date at St. Maries 14th August 1638 we did ordeine & appoint Capt: Thomas Cornwaleys Esq & one of or Counsell of or Province of Maryland to be Admirator of the goods & chattells within or said Province wch were Jerome Hawley's late of St Maries Esq deceased at the time of his death, and bound & charged him as well by his corporall Oath as by a Recognisance of 1000 pounds sterling, to make a full and perfect Inventory of all the said goods and chattells, & to render a faithful and true Accompt thereof when he should be thereunto called by or Secretary or had otherwise fully administred the same According whereunto the said Tho: Cornwaleys on 13th September following made & delivered to or Secretary an Inventory of the said goods & chattells amounting to the value of 944 pounds 13 shillings . . . and afterward that is to say on 20th Aprill 1639. brought in his Accompt of the said estate to or said Secretary who hath diligently perused & examined the same & findeth the funeral expences & other charges reasonably defrayed and the just

debts orderly & rightfully discharged by the said Thomas Cornwaleys on the behalfe of the said Jerome Hawley to amount to the full summe of the estate received, that is to say to the summe of 944 pounds 13 shillings sterling. Know ye therefore that we well approving the faithfulness and diligence of the said Thomas Cornwaleys, doe hereby admit & approve of his said Accompt, and signifie & declare tht the said Tho. Cornwaleys hath fully administered the goods & chattells of the said Jerome Hawley; And therefore doe hereby quite claime & discharge him of his aforesaid Recognisance, & of all further Accompt and question touching the said Admraon. Witnesse or deare brother Leonard Calvert Esq, Leutent grall of or said Province of maryland. Given at St. maries this 29th Aprill 1639." ²¹

²¹ *Ibid.*, pp. 101-2.

CHAPTER IX

CORNWALEYS AS LEGISLATOR

(Continued)

Toward the close of the eventful year 1638, Lord Baltimore sent word to the Governor of his Province to prepare for the Third Assembly of Maryland, which was to meet at St. Mary's on February 25, 1638. The following summons was directed to Captain Cornwaleys:¹

Cecilius Lord Proprietary &ca to our dear Friend
& Councillor Thomas Cornwaleys Esqr Greeting
whereas we have appointed to hold a General
Assembly of the Freemen of our Province at our Fort
of St. Marys on the five and twentieth day of
February next we do therefore hereby will and
require you that all excuses and delays sett apart you
repair in Person to the said Assembly at the time and
Place prefixed there to advise and Consult with us
touching the important affairs of our Province.

Given at St. Marys the 18th January 1638.

The same announcement was made to Mr. Giles Brent, Councillor, Mr. Fulk Brent, Mr. Thomas Greene and Mr. John Boteler. Notification was furthermore sent to the freemen of the various Hundreds, St. Marys, St. Georges, St. Michaels; to Mattapanient and to Kent Island, to elect their Burgesses or Representatives for the coming session of the Assembly which was done as directed.²

The following were the members of the Assembly that met at the Fort at St. Mary's, on February 25, 1638: The Lieutenant General, Leonard Calvert, Captain Thomas Cornwaleys, Messrs Fulk Brent, Giles Brent, Secretary Lewger and Thomas Greene.³ The Delegates were: Messrs Gerard and Gray, for St. Mary's; Wickliff and Rebell, for St.

¹ *I—Archives of Maryland, Assembly*, p. 27.

² *Ibid.*, pp. 27-31.

³ Note the absence of Boteler though invited by special summons. This was the gentleman referred to in connection with the Kent Island disturbance. Streeter remarks that his former hostility had been tempered and the Governor was desirous of gaining his good will (*Streeter, Papers, etc.*, p. 149).

Georges; Cauther and Price, for St. Michaels; Bishop, for Mattapanient; and Thomas and Brown, for Kent.⁴

Immediately after assembling, "they removed the Assembly to be held at Saint Johns."⁵ St. John's was probably the mansion house of the manor of St. John's near the town of St. Mary's, reserved for the Governor.⁶ When the session had convened at this place, the letter of the Proprietary was read. It was addressed to Leonard Calvert and gave him "full Power and Authority" in the Assembly to assent to such legislation which he thought good and necessary for the government of the Province after it had passed with the approval of the freemen of the Province or of the majority of them. These laws were to be, in as far as possible, conformable to the laws of the mother country and were to hold till Lord Baltimore or his heirs should set them aside.⁷ The Proprietary was led to this resolution of allowing the governed to originate their laws because he saw that to insist on his right to suggest the laws would only lead to difficulties that would retard the progress of the colony. Consequently he decided to waive his claim to the initiative and to concede to the Marylanders the right to legislate for themselves. Furthermore, the code already prepared was not given his approval for this very reason.⁸

On the first day of the Assembly, Cuthbert Fenwick and Robert Clerke claimed a voice as not having assented to the election of the Burgesses from St. Mary's and they were admitted to membership in the law-making body. It seems that the two men rested content with having established their right for their presence is not noted in the subsequent acts of this session.⁹ The Orders to be observed during the sessions were substantially the same as those in force during the Second Assembly with several new ones. Thus any late arrival was to be amerced twenty pounds of tobacco which

⁴ *I—Archives*, p. 32.

⁵ *Ibid.*

⁶ Scharf, *History of Maryland*, Vol. I, p. 131.

⁷ *I—Archives*, pp. 31-2.

⁸ Streeter, *Papers relating to the Early History of Maryland*, p. 148.

⁹ *I—Archives*, p. 32; also Steiner, *Beginnings of Maryland*, p. 105.

was to be "paid to the use of the house." Another ran as follows: "After any Bill hath been once read in the house the Bill shall be read engrossed or utterly rejected and upon any day or day [sic] appointed for a Session all Bills engrossed shall be put to the question and such as are assented to by the Greater part of the house and if the Votes be equal that shall be judged the Greater part which hath the Consent of the Lieutenant General shall be undersigned by the Secretary in these words the freemen have assented and after that the President shall be demanded his assent in the name of the Lord proprietary and if his assent be to the Bill, the Bill shall be undersigned by the said Secretary in these words the Lord Proprietary willeth that this be a Law."¹⁰

The action of this Assembly was varied and important. However, since no detailed account is given as to the opinions of the members on the laws as they were discussed, it will suffice to give briefly the import of the legislation effected which laid the foundation of the religious, civil and social organization of the Province. The most important laws framed were of this tenor, that "Holy Church within this province shall have all her rights and priviliges,"¹¹ "The Lord Proprietarie shall have all his rights and prerogatives," "The Inhabitants of this Province shall have all their rights and liberties according to the great Charter of England." Crimes and misdemeanors were defined, and their penalties fixed, courts were established and their jurisdiction determined, inferior officers provided for and their oaths of office set down, a military establishment was ordered; in short, to use the words of Streeter, "the whole machinery of government planned and prepared to be set in motion."¹² The sessions came to a close on March 19, 1638.

This Assembly, like the preceding, was not confined merely to legislation. Sometimes it assumed the functions of a

¹⁰ *I—Archives*, p. 33.

¹¹ Much has been written to show that was meant by the phrase "Holy Church." Briefly, it meant in this case, no particular church provided it was a church that professed a belief in Christ.

¹² Streeter, *op. cit.*, p. 151.

Court to try both civil and criminal cases. An instance of the latter will not be without interest as it shows the different temperaments of the men who formed the Assembly. The proceedings of the trial itself are not recorded. We only have the account of the opinions of the members as to what punishment was meted out to the culprit. The record of the event reads as follows: "Then was called John Richardson & charged with flight & Carrying away the Goods unlawfully from his Master & found Guilty by the whole house and adjudged by the house to be whipped three several times." Five were in favor of inflicting the penalty just mentioned. Mr. Greene thought that he should be hanged. The two Brents voted for whipping him "very severely"; the Captain, that he should "be whipped provided that he be Sorrowful for his fault"; and the Governor, that he "be laid in Irons and whipped three several times very severely."¹³

On two occasions, namely, on March 1st and March 7th, Captain Thomas Cornwaleys "was amerced for tardie," twenty pounds of tobacco.¹⁴

On the day following the close of the Assembly, the Court was opened at St. Mary's. At the first session, the various officers of the Province who formed part of the same took the oaths prescribed, namely, the Oath of Allegiance to the King and the oath which each man was obliged to take in virtue of the office he held in the Province. The oath to the King was defined at the last Assembly.¹⁵ Thomas Cornwaleys took, besides the Oath of Allegiance, the one appointed for a Counsellor.¹⁶

On April 25, 1639, Governor Calvert issued instructions to Secretary Lewger to draw up the following document:¹⁷

These are to will and Require you to draw a Commission to Captain Thomas Cornwaleys Esqr &c for the hearing and determining of any Civil Causes

¹³ *I—Archives*, p. 37.

¹⁴ *Ibid.*, pp. 36-7.

¹⁵ *III—Archives of Maryland, Council*, p. 85.

¹⁶ For the Oath of a Counsellor, see *I—Archives*, p. 45.

¹⁷ *III—Archives*, p. 85.

hapning during my Absence from St. Marys in the same manner as I my Self might do by the Law of the Province.

Just how long this commission of the Captain lasted cannot be stated with certainty. One month is the longest period during which it could have held force since we find in the records of the Council that the Governor was again at his post on May 28th. When Calvert returned, Cornwaleys carried out his long desired plan of going to England. Just when he set sail is a matter of conjecture. On May 29th, the Lieutenant General issued an appointment to Giles Brent as Captain of the military forces of the colony since the militia was "destitute of a Captain to lead and Command them and to exercise them in the discipline Military."¹⁸

Just what took the Captain to his native land has not come down to us. Various opinions may be formed however, as to his intention. Most probably he wished to see his wife who was there. In his letter of the previous year, he referred to her condition being such as to indispose her to manage his affairs.¹⁹ And we have no reference to her having come to Maryland in the interim. Streeter supposes that the management of Hawley's estate took him to England.²⁰ In the letter of the Captain referred to, he also expressed the wish to have an interview with Cecilius Calvert. Whatever may have been his design, his stay there was not protracted beyond a year and a half.

During Cornwaleys' absence from the Province, a session of the Legislature convened at St. John's on October 12, 1640. Previous to its opening, on September 19, 1640, the following summons was issued by the Governor in the name of the Proprietary to Cuthbert Fenwick, Attorney of Cornwaleys:

Caecilius &ca to our trusty Cuthbert Fennick Gent
Atty within this Province of our right trusty &ca
Greeting whereas we have appointed to hold a
General Assembly at St. Marys on monday the

¹⁸ *Ibid.*, p. 86.

¹⁹ *Calvert Papers*, No. 1, p. 170.

²⁰ Streeter, *op. cit.*, p. 152.

twelfth October next at which we could much have wished to have had the presence and advice of our trusty Counsellor Thomas Cornwaleys which being not to be presumed upon by reason of his absence nevertheless for the respect we bear unto him and out of our care that so great a member of our province may have his Attorney there to take care of such things as may concern him therefore we do hereby authorise you to repair personally to the said Assembly there to have place voice & seat as our said Councillors Proctor or Attorney during his absence.²¹

In this Assembly, we find two new "Hundreds" represented, St. Clement's and St. Margaret's. Furthermore, Mattapanient had risen in numbers as to warrant its representation as a Hundred and was known as Conception Hundred.²² It is not necessary to dwell on the acts of this Assembly since the Captain was not present at its sessions. However, two acts are worthy of notice. The first was of the same import as one passed at the preceding Assembly, that "Holy Church within this Province shall have and enjoy all her Rights liberties and Franchises wholy and without Blemish." The other decides who is to be chief executive in the colony in case the Governor should die or be absent from the Province without having nominated another to act for him. In this case the vacant office was to be occupied by the first Councillor, who would then hold office until the return of the Lieutenant General or the appointment of another by the Proprietary.²³

During the next Assembly which sat during the early part of the month of August, 1641, Cuthbert Fenwick was still acting as Attorney for Cornwaleys. At the next session,

²¹ I—*Archives*, pp. 88–9, Cuthbert Fenwick was the progenitor of two American Bishops, Rt. Rev. Edward D. Fenwick, O. P., founder of the Dominicans in the United States, pioneer missionary in Kentucky, "Apostle of Ohio" and first Bishop of Cincinnati; and of Rt. Rev. Benedict J. Fenwick, S.J., second Bishop of Boston. For a biographical sketch of Cuthbert Fenwick, cf. O'Daniel, *The Right Rev. Edward Dominic Fenwick, O. P.* (Chapter I); O'Daniel, *Cuthbert Fenwick—Pioneer Catholic and Legislator of Maryland*, in *The Catholic Historical Review*, Vol. v, pp. 156 *et seq.*; Davis, *The Day-Star of American Freedom*, pp. 207 *et seq.*

²² I—*Archives*, pp. 88–9.

²³ *Ibid.*, p. 96.

which opened on March 21, 1641, we again find the Maryland Counsellor at his post of duty. All the freemen were invited to take part. The reason for calling all the freemen and not only the Burgesses was because most of the laws then in force had expired, having been enacted only temporarily.²⁴ The very first act of the House was a declaration that it could not be adjourned or prorogued without its own consent.²⁵ The power of dissolution was not denied.²⁶

The next day a bill for an expedition against the Indians was introduced. The text of this legislation is not given. Opposition was raised to the same, the objection being, that it was not to be left to the discretion of the Governor and Counsel.²⁷ A petition was presented in the afternoon of the same day by David Wickliff "in the name of the Protestant Catholicks of Maryland." Action was postponed till the next morning. The offended parties complained that Mr. Thomas Gerard had taken away the key to the chapel and carried away several books from the same. They asked that the offense be dealt with as justice demanded. What Gerard said in his defense is not recorded. Whatever it was, it did not satisfy the House and he was found guilty of a misdemeanor. The penalty meted out to him was to restore the key and the books and to relinquish all title to them or to the house. A fine of five hundred pounds of tobacco was imposed to be used for the maintenance of the first minister that should arrive.²⁸

The only new enactment of this session was "An Act for Granting of one Subsedye." It provided for the contribution to the Proprietor of fifteen pounds of tobacco by every inhabitant of the Province, children under the age of twelve years being excepted. The act was unanimously passed and was designed as a token of gratitude to Lord Baltimore and as a remuneration for the expenses incurred in their behalf.²⁹

²⁴ *Ibid.*, pp. 114-5.

²⁵ *Ibid.*, p. 117.

²⁶ Streeter, *op. cit.*, p. 166.

²⁷ *I—Archives*, p. 118.

²⁸ *Ibid.*, p. 119.

²⁹ *Ibid.*, p. 123.

The laws framed at this session were published under the Great Seal on March 26, 1642.

The next session of the legislature opened on July 18, 1642. The body consisted of the Burgesses and others called by special writs. At the opening of the same, Robert Vaughn, a member from Kent Island, proposed to separate the House; one part to be made up of the Burgesses. This the Governor refused to sanction. The separation of the House into two chambers later became the law of the Province.³⁰ The essential business brought to the attention of the legislators, was an expedition against the Indians which met with decided opposition. The Governor then informed them that it was not his purpose to ask their advice or consent in the matter. The power of making war rested, in virtue of the Charter, with the chief executive. He merely wanted to know what assistance they could render in case he decided to proceed against the savages. The Secretary then proposed that twenty pounds of tobacco be levied upon each man to defray the expenses of such an expedition. The action on the bill was postponed and was not again brought up during the sessions.³¹ Other legislation dealt chiefly with judicial matters and the Assembly came to a close on August 1st. Calvert's intentions with regard to punishing the hostile Indians were not frustrated by the opposition of the Assembly. What action he took in this difficulty will be the subject of a succeeding chapter.

We now come to the important Assembly which began its business on September 5, 1642. During the sessions, Thomas Cornwaleys held a great number of proxies, on one day having as high as eleven, and on another, as many as nineteen.³² No other member had as many proxies on any day of the sessions. This Assembly was composed of all the freemen of the Province.

On the first day, the Governor, Captain Cornwaleys, Mr. Brent, the Secretary, the Surveyor, Mr. Weston and Mr.

³⁰ *Ibid.*, p. 130.

³¹ *Ibid.*, pp. 130-1.

³² *Ibid.*, pp. 167, 172, 173, 174, 176, 180.

Greene were appointed a Committee to draw up a bill touching a war to be made on the Indians and other matters pertaining to the safety of the colony.³³ This group of men reported the bill in the afternoon session. The Governor demanded exemption from the levy of men provided for in the document submitted. His request was refused by a vote of one hundred to thirty-eight.

On September 6th, the Governor offered a measure for the repeal of all laws enacted at the preceding Assembly. The same committee mentioned above was appointed, with the exception that Mr. Weston's seat was to be occupied by Mr. Whiteliff, to draw up other suggestions for the safety of the colony. In the afternoon of the same day, the Captain was named as one of a committee of eight to consider bills to be propounded on the next day that the body met.³⁴

The committee, at the time appointed, submitted several bills among which was one providing for officers. This had been construed as giving the Governor power to compel a freeman to serve in such offices as that official was pleased to bestow, provided a reasonable fee was allowed. Cornwaleys and Brent offered a determined opposition to the passage of this law, on the ground that it was unnecessary. Besides it gave away their liberties and was unlimited in giving the Governor a right to force men to the office of Sheriff, as well as others, thus "against common right and decency compelling men to be hangmen." Calvert was willing to make a concession with regard to compelling anyone to become an executioner.³⁵ The bill was, however, defeated.³⁶

On the morning of September 12, the report of the committee was read before the assembled freemen. Twenty-five bills were proposed. A provision was made by the Committee that the laws should last for three years. To this Calvert objected. When the question was submitted to discussion, it was found that twenty-six "voices" were in

³³ *Ibid.*, p. 171.

³⁴ *Ibid.*, pp. 174-5.

³⁵ *Ibid.*, p. 175.

³⁶ *Ibid.*, p. 179.

favor of the legislation enduring till the first meeting of the next Assembly. Among the voters were the Governor, who held three votes and the Secretary, with four. Forty-six were in favor of the laws having their force till the first meeting of the next Assembly with the proviso that, in case none were called before the lapse of three years, they were to hold for that period of time. Captain Cornwaleys and Mr. Brent, with their proxies, voted that they should have their vigor for three years. In the afternoon the question was again discussed. The voting resolved itself to two opinions. That they should endure for three years or else to the next meeting of the Assembly in case one was called within that time, was favored by the Governor, Mr. Secretary, Mr. Surveyor, Mr. Binks, Thomas Hebden and Mr. Weston, for themselves and their proxies. That they should last "for three years certain" was championed by Captain Cornwaleys, Mr. Brent, Mr. Greene, Nicholas Hervey, Randoll Rebell, John Medley, Francis Posie and Nicholas Cosin, for themselves and their proxies, who carried their point.³⁷

On September 13th, the last day of this Assembly, the Bill for an Expedition against the Indians again came before the House. It was passed by all, except that Captain Cornwaleys with "fifteen of his Proxies of St. Michaels hundred" voted against it by reason of the clause exempting the servants of the Governor.³⁸ Twenty-five Acts were published after this Assembly "at St. Maries under the Great Seale, the fifteenth day of September 1642." It is worthy to note that after each is added "This Act to endure for three years from this present day."³⁹

During the session of the Assembly which had just closed, Cornwaleys and Brent had stirred up considerable opposition to various measures. This fact did not prevent the Governor from bestowing upon both men responsible public appointments. When called upon they were ever ready to give

³⁷ *Ibid.*, pp. 177-9.

³⁸ *Ibid.*, p. 182.

³⁹ *Ibid.*, pp. 182-198.

their services to the Colony unselfishly. An exception must be made to this last statement in the case of the Captain. On the records of the Provincial Court we find the following entry for September 16, 1642, the day following the publication of the Acts of the Assembly: "Captaine Thomas Cornwaleys Esq being demanded to take the Oath of a Counsellor absolutely refused to be in Commission or to take the Oath." The reasons for this unexpected procedure are not given. Taken in connection with the course he followed in the Assembly, it affords strong ground for the inference that the friendly relations between Calvert and Cornwaleys were disturbed. Since the Captain, however, was ever willing to render every service in his power to the colony in other capacities, we think that his refusal to "be in Commission" was due to dissatisfaction with the legislative proceedings.

CHAPTER X

INDIAN DISTURBANCES

From the foundation of the town of St. Mary's, the Maryland settlers strove to live on friendly terms with the aboriginal inhabitants. Amicable relations were the order of the day. The object of Lord Baltimore in using every means in his power to conciliate the tribes was chiefly to civilize them and to bring to the benighted children of the forest the light of the Gospel. From the annual letters of the Jesuits we receive glowing accounts of the success of the missionaries. Several chieftains were won over from false worship to the cult of the one true God. Following the example of their leaders many of the savages embraced the true faith. In fact, the early days of the colony were singularly free from hostile demonstration on the part of the Indians.

There were other tribes living on the frontiers of the Province who were inimical not only to the colonists but to the Indians who were the friends of the settlers. With these, Governor Calvert had to reckon. The cause of their hostility was chiefly due to the intrusion of the colonists. The Piscatoway and Patuxent tribes were the friends of the Marylanders. The Susquehanocks were the enemies of both the Indian and English inhabitants of Maryland. They were the principal enemies with which the colonists had to deal. Some eastern shore Indians also acted in a manner as to render it necessary to adopt measures to repel them.

As early as May 28, 1639, the Governor and Council saw fit to arm the colonists for repelling any attack on the part of the Indians of the eastern shore.¹ The Susquehanocks were also mentioned in this proclamation. For further protection, it was thought wise to arm the colonists, particularly those living about St. Mary's, for purposes of defence. Mr. Giles Brent was appointed on May 29, 1639, Captain of the

¹ *III—Archives of Maryland, Council, p. 85.*

military forces, next in rank to the Governor, and was ordered to train the inhabitants in martial exercises.² He was also directed to provide for arms and ammunition. In this commission to Brent, Leonard Calvert refers to the absence of Captain Cornwaleys. From the Governor's words, it is evident that, had Cornwaleys been available, he would undoubtedly have been his choice for the post. The reason of Cornwaleys not being able to assume the charge was due to his preparations for his visit to England described in a previous chapter. Up to this time, he had been looked to as the main reliance of the colonists in their encounters with the natives or other enemies.

Strict injunctions were issued to the settlers that no weapons were to be sold to the savages. Parties were sent to punish the marauding Maquantequats.³ The old friends of the colony, the Patuxents, were, by a public proclamation on January 24, 1639, declared under the protection of the English, and all persons were forbidden to do them violence.⁴

When the Susquehanocks on the north, and the Wicomeses and Nanticokes on the east, made inroads on the territory of the Marylanders, Calvert found it necessary to issue another proclamation, on July 10, 1641.⁵ In it, he obliged the settlers to be on their guard against the Indians. Any person who harbored a savage was amenable to martial law. Besides, he authorized the people of Kent to shoot any Indian that should make his appearance on the island.⁶

Since the Indians about Maryland continued their hostilities, probably with increased violence, it was deemed advisable to introduce a rigorous military discipline among the inhabitants than had hitherto been practised. Accordingly, certain orders were promulgated, on June 23, 1642, "upon pain of death or other penalties, as by Severity of Martiall Law may be inflicted":

² *Ibid.*, p. 86.

³ *Ibid.*, p. 87.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Streeter, *Papers relating to the Early History of Maryland*, p. 102; also *III—Archives*, p. 98.

That noe Inhabitant or housekeeper entertain any Indian upon any colour of License, nor doe permit to any Indian any Gunn powder and Shott.

That all housekeepers provide fixed gunn and Sufficient powder and Shott for each person able to bear arms.

Noe man to discharge three Gunns within the space of one quarter of an hour nor concurr to the discharging Soe many, except to give or Answer alarm.

Upon the hearing of an Alarum every housekeeper to answer and continue it Soe far as he may.

Noe man able to bear arms to goe to church or Chappell or any considerable distance from home without fixed gunn and one Charge at least of powder and Shott.

Of these every one required to take notice upon pain of Content. for better execution, the Serjt to inform the Lieutenant Governor or Captaine.⁷

On August 18, 1642, Captain Cornwaleys was again placed in charge of military operations in the colony. His commission made him Captain General of the army. The same was issued "to leavie men and Command them, and use all power and means conduceing in his discretion to the resistance and Castigacon of the enemies and vanquishing of them in as full and ample manner as any Capt General of any army may, and requiring all officers and soldiers &c to be obedient and assitant to him upon paines as may be Inflicted by Martiall Law."⁸

At this juncture, one of the settlements at Piscataway was attacked, the inhabitants murdered, and a large amount of plunder carried away. Even the Jesuit missionaries, devoted and fearless as they were, began seriously to think of abandoning their station, and establishing themselves at Potupaco (Port Tobacco), which was less exposed to the ravages of the cruel and ever active Susquehanocks. On the east also, the savages had begun their bloody work. Even the peaceful Patuxents, so long the friends of the Marylanders, showed signs of an aggressive and hostile spirit.⁹ This action seems

⁷ III—*Archives*, p. 103.

⁸ *Ibid.*, p. 106.

⁹ Streeter, *op. cit.*, pp. 167-8.

to have been the result of the Governor's determination despite the opposition of the Assembly to undertake an expedition against the Indians.¹⁰

Five days after Cornwaleys' appointment, Calvert addressed a letter to Governor Berkeley of Virginia. The message recounts the aggressions of the savages. Five Virginians and eight Marylanders had been barbarously massacred. For the vindication of the "Honour of our Nation" and to avenge the murder of the colonists, he asks Berkeley to furnish one hundred men, well armed, to meet the same number of the Maryland forces. On October 1st, they are to meet at Kent Island and together to inflict condign chastisement on their insolent and merciless enemies.¹¹ As a measure of precaution, Henry Bishop was authorized to take command of the fort at Patuxent, which was to be a place of rendezvous of the inhabitants of the vicinity in case of danger.¹² Furthermore, notice was issued on August 28th, providing for the safety of the settlers in case of any sudden attack, and indicating the strongholds within prescribed districts, to which women and children could fly for protection.¹³ Finally the following was published:

Proclamation By the Lieutent Generall

These are to publish and declare that the Sesquihanowes, Wicomeses, and Nantacoque Indians, are enemies of this Province, and as such are to be reputed & proceeded against by all persons. Given
at St Maries Sept 13th 1642

LEONARD CALVERT¹⁴

On September 13, 1642, the bill was passed for an expedition against the Indians. This act empowered the Governor, or any Captain or Captains under him, to organize an expedition against the Susquehanocks, or any Indians who had participated in the late ravages in the colony. It authorized

¹⁰ I—*Archives of Maryland, Assembly*, p. 130.

¹¹ III—*Archives*, p. 106.

¹² *Ibid.*, p. 107.

¹³ *Ibid.*

¹⁴ *Ibid.*, p. 116.

him to take out of every county or hundred, every third man able to bear arms. The Governor and his servants were exempted from being reckoned in any hundred "to any purpose of this Act." It was this phrase to which, as we have seen in the previous chapter, Cornwaleys offered an objection. The various hundreds were to defray the expenses of arming and otherwise equipping the men. Provisions were to be supplied in the same way. The freemen of the hundreds were to judge the number of men and the amount of ammunition, food, etc., to be contributed by them.¹⁵

Though Governor Calvert was convinced of the grave necessity of an expedition against the Indian marauders for the welfare and even the existence of the Colony, and pressed his designs with dogged earnestness, various circumstances arose to thwart his plans. The letter addressed by him to the Governor of Virginia in the latter part of August, did not reach James City until October 5th, when it was at once put before the Council. That body, on consideration, decided to send an answer to Calvert, stating that it was "impossible to comply with his request, as many of the inhabitants were about to remove to new plantations, and were hardly able to get arms and ammunition to defend themselves; and those remaining upon the old plantations, not having a supply of military provisions, besides the heavy hand of God's visitation upon the plantations generally, of which few have recovered."¹⁶

The resources of the Marylanders were so scanty that it seemed almost an act of folly to attempt to organize an expedition against such powerful foes, with means so limited. The people, moreover, were not minded to undergo the hazard and exposure consequent upon a winter's campaign. Besides, they were filled with dismay at the prospect of a great debt accumulating, in case of a protracted Indian war and they were more strongly disposed to bear their hard lot

¹⁵ *I—Archives*, pp. 196-7.

¹⁶ Streeter, *op. cit.*, quoting Virginia Records, p. 178.

than to risk the possibility of being subjected to evils that would eventuate from such an undertaking.¹⁷ Calvert, nevertheless, issued a proclamation on January 17, 1642, announcing his purpose of providing by all possible care and diligence to provide for the safety of the Province, not only from all danger of the Indians, but "from feare of any." The colonists were authorized to kill any Indian, who should show himself, by land or water, without a white flag, within a district about the Patuxent River.¹⁸ The Indians were to be forewarned of the Governor's intent, by sending a messenger to the neighboring tribes to warn them not to approach that territory without showing the prescribed flag.

On December 16, 1642, the Governor sent out notice of his intention of holding an Assembly on February 3rd, but on February 1st, he decided that the session could not take place.¹⁹ One reason for this was Calvert's earnest wish to strike a blow at the savages, and his conviction that a meeting of the legislature would interfere with his intent.²⁰ He had no doubt been in consultation with Captain Cornwaleys on the subject. The Captain had decided to undertake an expedition and on January 23rd, he received a formal commission to this effect.²¹ The settlers were by no means as keen as the Governor on this matter, and had shown themselves disinclined to enlist in such an undertaking. The name of Cornwaleys was, however, a tower of strength, and with a view of gaining the good-will of the people and of urging them forward, Calvert, after issuing the Captain's commission, published the following proclamation:

By the Leutent Generall.

whereas I understand of divers jealousies and feares abroad in the colony touching the Indians, and the expectation of a great charge & hindrance this yeare either in making a march upon them, or in guard against them, to the disanimation of the people, and foreslowing their usuall diligence & alacrity in proceeding in their labours for the next

¹⁷ *Ibid.*, p. 178.

¹⁸ *III—Archives*, p. 126.

¹⁹ *I—Archives*, p. 201.

²⁰ Streeter, *op. cit.*, p. 180.

²¹ *III—Archives*, p. 127.

cropp, for remedie whereof and to assure them of what consideration is had of their safeties & ease, I thought fitt to publish & declare hereby that all possible diligence is & shalbe used for the furnishing the country with ammunition, and that (as soon as conveniently may be) there shalbe an expedition sett forth against the Indian enemies of this Province, at the sole charge of his Lop (excepting the ps ons of the souldiers to make the expedition withall, for whose service only the country shalbe charged) and that Capt. Cornwaleys Esq is appointed & hath undertaken to goe as Generall of the said expedition, to whom I have given all purchase plunder that shalbe made upon the enemy during the said expedition, to be by him disposed of for the encouragemt of voluntiers, that will sett themselves forth & serve at their owne charge, and for the reward of his souldiers as he shall find them to deserve. And further for the greater encouragemt and relieve of those that shall goe upon this service, I will use all circumspection that may be that the said expedition shalbe so made, and (by God's helpe) performed that it shalbe no considerable hindrance to any ones cropp: and that the debts of those whose pnt abilities will not reach to the satisfying of their credrs, without greivous pressure and disabling them for their necessary subsistence for the future, I will use meanes with their Credrs (if they be inhabitants of this Prov:) to forbear untill the next yeare, wch I have already assurance of from some of the chiefest.

Given at St maries 23. Jan: ²²

Three days after the promulgation of the above, the license given on January 17th, to kill any Indian coming within certain limits of the colony, was revoked, except with regard to such Indians known to belong either to the Susquehanocks or Wicomeses. Public notice was also given that a treaty of peace with the Nanticokes was in negotiation. In order to arrange the details of the pact, a truce of six weeks was declared, during which these Indians were under his Lordship's protection.²³ In regard to the excepted tribes, every effort was to be brought into play to subdue them. But there were great obstacles to be sur-

²² *Ibid.*

²³ *Ibid.*, p. 128.

mounted. The inhabitants were not in sympathy with the movement. There was a great scarcity of arms and ammunition. Besides, the expenses necessary for the undertaking were not forthcoming. By the 8th of April, 1643, Leonard Calvert decided to abandon his plans for the punishment of the savages and announced his intention in the following notice:

Whereas by a Proclamation bearing date at St. Maries the 23. January last upon certaine hopes then presumed upon of meanes to goe a march upon the Sesquihanowes I did declare to the colony that there should be an expedition sett forth at his Lops charge, with other things therein conteined; wch meanes being not yet found answerable to my hopes I doe think fitt to advise further of the intended expedition; & therefore doe hereby annull & revoke the said pclamation, & the obligations therein undertaken on his Lops behalfe; & all powers and Commissions therein given touching or concerning the said expedition untill I have further considered there-upon.²⁴

Aside from the reasons assigned in this proclamation, the principal motive seems to have been the sudden determination of the Governor to sail for England. In fact, three days after, he appointed Giles Brent to act with full powers as Governor during his absence.²⁵

After the departure of the Governor, the Council determined to organize a company of ten good marksmen, and post them, as a garrison, fully armed and equipped, on Palmer's Island. They were to keep close watch on the movements of the Susquehanocks, whose fort was a few miles above the mouth of the Susquehanna River. They were to prevent these savages from proceeding down the bay to make an attack upon the unprotected frontiers of the colony.²⁶

Governor Brent then issued a commission to Captain Cornwaleys as Captain General of the army. He was empowered to take charge of all military operations on land and water within the County of St. Mary's. He was to use

²⁴ *Ibid.*, p. 130.

²⁵ *Ibid.*

²⁶ *Ibid.*, p. 134.

all means possible for levying soldiers. Mutinies were to be punished. Any enemies were to be dealt with as occasion demanded. In a word, he was to use his discretion toward the protection of the inhabitants to the fullest extent of power vested in a Captain General.²⁷

Ever since the Marylanders landed at St. Mary's and took under their protection the Yaocomeses, the Patuxents and the Piscataways, and other neighboring tribes, they reassured the disheartened children of the forest by offering such protection as they could afford against the conquests and plunderings of the fierce Susquehanocks. These Indians, as well as the colonists from time to time, had to fear the sudden inroads and murders of those savages. At one time, reinforced by some of the Wicomeses, they came in canoes down the bay, and landing at Kent, robbed or murdered the most exposed inhabitants. Again, moving swiftly up the Patuxent, they made deadly attacks upon the planters scattered along the neck formed by that river and the Potomac. At another time, their fierce war parties, prepared for deeds of blood, followed their course in a southwest direction over the upper waters of Patapsco, and, suddenly emerging from the forest, fell upon the defenceless settlers who inhabited the region at the head of the Piscataway. No place was secure from their attack. No mercy was to be expected when they appeared on the scene.²⁸

No wonder then, that a man of strong sympathies and of public spirit, like Captain Cornwaleys, should have his sympathy moved and his wrath aroused at the tales of cruelty and wrong inflicted by these murderers. Little wonder then, that he was determined to retaliate and to inflict punishment on these savages, to teach them, if such a thing were possible, to respect the lives and the homes of the innocent colonists. Accordingly he made the strong resolve to throw the weight of his own popularity into the balance. Casting aside all reliance on the law to force enlistment of

²⁷ *Ibid.*

²⁸ Streeter, *op. cit.*, p. 186-7.

men, he determined to count entirely upon a sufficient number of volunteers who were willing to go with him on such an expedition as he had planned, relying on his courage and capacity to carry his designs to success. In order to proceed, he sought and obtained the consent of Governor Brent, who gave his approval by the following authorization:

Whereas we are informed of your propenseness to go a march upon the Sesquihanowes, and that several volunteers, to a considerable number, are willing and desirous to be led out by you upon such a march upon certain conditions treated and agreed between you and them, We, approving very well of such your and their forwardness for the vindication of the honour of God and the Christian and the English name, upon these barbarous and inhuman Pagans, do hereby authorize you to levy all such men as shall be willing to go upon the said march, and to lead and conduct them against the Sesquihanowes or other Indian enemies of the Province, in such time and manner as you shall think fit.²⁹

Just when and how the Captain carried out his plan of warfare with the Indians, the scant records of the time do not inform us. From a work published a few years after the events here chronicled, on an entirely different subject, we can arrive at a few facts, which throw some light on this interesting affair.³⁰

The author of this book states that the Swedes, then settled on the Delaware, and by no means favorably disposed toward the English settlements, had sold arms and ammunition to the savages. Besides, they had hired out three of their men to the Susquehanocks, who trained the tribes in the methods of European warfare. They had, moreover, led the savage band into Maryland and Virginia, and assisted them to take the chief of the Potomaes prisoner and to subdue eight Indian tribes in Maryland, who had been civilized and won over to the English rule. According to the writer, the Susquehanocks with their auxiliaries, the

²⁹ *Ibid.*, p. 188.

³⁰ Plantagenet, *A Description of the Province of New Albion, American Colonial Tracts*, Vol. II, No. 6, p. 17.

Ihonadoes and Wicomeses, to the number of two hundred and fifty, sprang upon the colonists of Maryland. Three Englishmen were killed and one Indian. Captain Cornwaleys, "that noble, right valiant and politic soldier," losing but one more man, killed, with fifty-three raw and tired Marylanders, twenty-nine savages.³¹ Yet this severe chastisement did not seem to suffice. According to Streeter, the Captain made one or more expeditions subsequent to this, which must have ended in disaster.³²

On June 18, 1644, a commission was issued to Captain Henry Fleete, who was to go to the fort at Piscataway, to negotiate with a deputation from the Susquehanocks. In the instructions given to Fleete, one article especially directed him to obtain the restitution of "as much as you can gett of the armes & other goods lost or left in our last march upon them, at least the two feild pieces." He was furthermore authorized to conclude peace with these Indians to the honor, safety and advantage of the English.³³

Before Leonard Calvert sailed for England, relations between him and Captain Cornwaleys were not as cordial as could have been desired. The reason was likely due to the conduct of the late Assembly and the subsequent resignation of the Captain from his Counsel. Another event that transpired about this time did not by any means serve to better matters in this regard.

On April 12, 1642, a commission was appointed by Lord Baltimore, consisting of Leonard Calvert, John Lewger and John Langford, to buy from Father Copley a certain house and some land connected with it. This house is referred to as the "Chappell House."³⁴ Thomas Cornwaleys was the representative whom Father Copley appointed to act for him.³⁵ The details of this negotiation are given in the records of the Provincial Court.

³¹ Streeter, *op. cit.*, p. 188-9.

³² *Ibid.*

³³ III—*Archives*, pp. 148-9.

³⁴ IV—*Archives of Maryland, Court*, p. 292.

³⁵ *Ibid.*, p. 266.

At the instance of Capt Tho: Cornwaleys Esq, the Leutent Grall interrogated Mr Secretary, upon oath whether he together with L. G. [sic] & J. L. were appointed by instruction from the right noble honorable the Lord Baltemore &c to purchase for his Lop of mr Copley a certaine house & land appteining called the Chappell house; And whether did he purchase it or no in his Lops name & for his Lops use for the price of 200 l sterl payable in Engl: by bill of exchange, & whether he were not ordered to charge bills of Exchange upon his Lop for the purchase. And to this Interrogatory mr Secretary saith upon his oath, that to the best of his remembrance he this deponent and Leonard Calvert & John Langford Esqrs, were appointed by Instruction from his said Lop to purchase for his Lop the chappell house at reasonable price; but whether the land appteining to it he remembreth not; & that they had order from his Lop (in default of other wayes to raise meanes for the purchase) to charge bill of exchange for it upon his Lop in England; and that they did purchase to the use of his Lop the said house & land appteining to it, & some other land adjoining, of the said mr Copley (or of the said Thomas Cornwaleys or of Cutbert ffennick [Fenwick] in the right & to the benefitt of the said mr Copley) for the price of 200 l sterl. certifie under great Seale 28. March 1644.³⁶

On various occasions, as the accounts of the proceedings in the Court inform us, several attempts were made by Cornwaleys or Fenwick, acting as his attorney, to obtain payment of the two hundred pounds. With what result we shall see presently. The Captain appeared, on January 2, 1643. The case was examined by Giles Brent, John Lewger and James Neale. When Brent asked the opinion of the others, Neale held that the acting Governor, Giles Brent, could not proceed in the case since his powers were restricted. Brent and Lewger thought otherwise. After reviewing the oath of Lieutenant General, Brent delared "that according to his cunning & skill he found himselfe bound to grant processe in the said cause, notwithstanding the mandate to the contrary, the Law of the Province nor the office of Lieutenancy

³⁶ *Ibid.*

being either of them abrogated or restraint, & therefore judged the process should be granted to the plf.”³⁷ He then gave Cornwaleys an opportunity of bringing his case before the court on February 1st.

When Cornwaleys appeared to prosecute Calvert, Lewger and Langford, as directed by Brent, Lewger testified as follows:

That he hath received no satisfaction nor any thing in value for wch he charged the said bill, althoughe he acknowledged it upon the bill, for the forme of it; but only took a house to his Lops use at the price of the 200 pounds charged in the Bill, wch house his Lop refuseth as not valuably bought, & the house relinquished to the plf. in the state as then it was, & therefore prayeth in equity that he be not compelled to pay the said mony, in regard the party for whom he bought it will not receive the house, nor is any thing yet received for that mony: & if the bill be recovered, he denieth the damage demanded.³⁸

The Lieutenant General then “demanded whether there was any reservation upon the bargaine to relinquish it if disliked.” The defendant was not able to prove any such reservation. The plaintiff was then required to make “oath of his damage.” Cornwaleys asked a respite. “And the Enquest not agreeing upon the Bill give in charge prayed at 5 el night to be discharged.” The attorney for Lord Baltimore not gainsaying, the Lieutenant General discharged them.³⁹

While Cornwaleys was absent in England, as we shall see in the following chapter, Cuthbert Fenwick, his attorney, on January 9, 1644, brought the following petition before the Court:

The petition of Tho: Cornwaleys Esq, by his attorney Cuthbert ffenick

Sheweth

that whereas the horle [honorable] Governor together with John Lewger & John Langford Esqres did on the 12th April 1642. deliver to your petr

³⁷ *Ibid.*, p. 218.

³⁸ *Ibid.*, p. 244.

³⁹ *Ibid.*

[petitioner] a bill of exchange of 200 pounds sterl: upon the right horle the Lord Proprietary of this Prov: The said bill of exchange was refused by his said Lop and protested; and thereby the petr hath suffered damage to the value of 100000 pounds tob & cask; & therefore prayeth the said damage, of the said parties, according to justice.⁴⁰

Giles Brent communicated this petition to the Governor and asked him to appoint a day whereon he might give his reasons to the Counsel why he should not pay Cornwaleys his demands. Calvert promptly informed Brent that he was not bound to any such procedure and consequently would not appoint any time for the hearing of the case.⁴¹ On January 13, 1644, Fenwick appeared before Giles Brent and complained that the Governor refused to give satisfaction for the damages and also refused to give his reasons on the appointed day. Brent then ordered the sheriff, Edward Packer, to serve "an attachment" against the goods of the honorable Governor. Packer refused. On the next day, Brent issued another writ of the same tenor to Thomas Mathewes.⁴² This is the last reference to this affair recorded, an affair in which Cornwaleys did not receive justice. Consequently another link was added to the chain of misunderstandings between Calvert and the Captain.

⁴⁰ *Ibid.*, p. 293.

⁴¹ *Ibid.*

⁴² *Ibid.*, pp. 293 and 294.

CHAPTER XI

CORNWALEYS AND INGLE

During Governor Calvert's absence in England, another menace to the peace and welfare of the Maryland colony arose. As the whole affair was an echo of what was transpiring in the mother-country, a brief survey of events in England at this time is necessary. Hostilities between the King and Parliament were soon coming to an issue. Charles I summoned all his loving subjects north of the Trent, and within twenty miles to the south of that river to meet him in arms at Nottingham on the twenty-second of August, 1642. On that day the royal standard was set up. Parliament's answer to this challenge was that all who gave assistance to the King were to be regarded as traitors. Civil war was to ensue.¹

The influence of this state of things was bound to be felt in Maryland. That Lord Baltimore had any political relations with the royal party, there is no evidence and little probability. The obligations of his charter compelled him to have some relations with the King. His colony was, as we have seen, dependent on the sovereign only, and entirely independent of Parliament. Communications with the monarch on matters outside of the subjects of the controversy could hardly have been considered an offense, so long as Charles was not held to have forfeited his crown.² It seems as though Baltimore, about this time, was entertaining thoughts of taking refuge from the storm in Maryland; for in March, 1643, he was cited before the Lords and placed under bond not to leave the country.³

About this time, Richard Ingle, master of a trading vessel from London, came to the colony. He had previously been in Maryland. The first time his name appears in the colonial

¹ Lingard, *History of England*, Vol. vii, pp. 267 *et seq.*; Browne, *George and Cecilius Calvert*, p. 127.

² Browne, *op. cit.*, pp. 127-8.

³ *Ibid.*

records is under date of March 23, 1641, when he petitioned the Assembly against Giles Brent "touching a direction to the Sheriff from his serving an execution."⁴ Captain Ingle was a rampant parliamentarian given to treasonable outbursts on his own quarter-deck. Sworn information was laid before acting Governor Brent that he had used language such as "the King is no King"; that he was "a captain for the Parliament against the King": and other expressions of the same kind. Ingle was a braggadocio, but a serious issue was thrust upon the Maryland authorities by his conduct. To allow him to go his way, was to commit the colony to the side of the parliamentary party; to arrest him as a traitor was to place it on the side of the King. As Browne remarks, the somewhat singular proceedings that followed look very much like an ingenious device to slip between the horns of the dilemma.⁵

In January, 1643, a warrant was issued by Brent to William Hardige, to arrest Ingle upon a charge of high treason. A similar order was sent to Captain Cornwaleys. He was to aid Hardige and to use all means possible to apprehend Ingle. The whole matter was to be done secretly.⁶ Ingle was thereupon arrested and given into the custody of the sheriff, Edward Packer. The Lieutenant General, Giles Brent, ordered the ship of Ingle seized together with his goods, until he should clear himself of the accusations against him. A guard was put on the ship, under John Hampton, who was to allow no one to come on board without a warrant from the Lieutenant General.⁷

Ingle escaped in the following manner. Packer had no prison, and consequently had to keep personal guard over his prisoner. He supposed, from "certayne words spoken by the Secretary" that Brent and the Council had agreed to let Ingle go on board his vessel. When Cornwaleys and Neale

⁴ I—*Archives of Maryland, Assembly*, p. 120.

⁵ Brown, *op. cit.*, pp. 128-9.

⁶ IV—*Archives of Maryland, Court*, p. 231.

⁷ *Ibid.*, pp. 245-6.

came forth from Brent's house bringing Ingle with them to the ship, on January 18, 1643, Packer accompanied them.⁸ Arriving on the ship, Cornwaleys said "All is Peace." He then persuaded Hampton to bid his guard lay down their arms and disperse. Ingle and his crew regained possession of their vessel. Under such circumstances Packer could not prevent the escape of Ingle since Councillor Neale and Captain Cornwaleys had assisted him by their acts and presence.⁹

A few days later, the following warrant was issued by Brent:

I doe hereby require (in his Maties name) Richard Ingle mariner to yield his body to Robt Ellyson Sheriff of this County, before the first day of febr. next to answer to such crimes of treason as on his Maties behalfe shall be objected agst him upon his utmost pill [peril] of the Law in that behalfe. And I doe further require all ps ons that can say or disclose any matter of treason agst the said Richard Ingle, to inform his Lops Attorney of it at some time before the said Court to the end it may be then & there prosequuted.¹⁰

Ingle, however, was not rearrested, though he still remained in the neighborhood of St. Mary's.¹¹ For some time following the Ingle question was agitated. For the sake of clearness, an account should be given of the acts concerning him as well as the persons connected with the affair, in the order of their occurrence.

After the warrant issued by Brent just referred to, "The Lieutent Grall appointed & commanded his Lops Attorney Grall to prosequeute agst mr Neale, Capt Cornwaleys, Edward Packer, & John hampton for their rescuous & escape of mr Ingle, according to justice and equity."¹²

The accusations against the persons concerned were accordingly brought forth by the Attorney of the Proprietary in the following words:

⁸ *Ibid.*, p. 258; Ingle, *Captain Richard Ingle*, p. 10.

⁹ IV—Archives, pp. 242 and 246.

¹⁰ *Ibid.*, p. 233.

¹¹ Ingle, *op. cit.*, p. 11.

¹² IV—Archives, p. 232.

The Charge of John Lewger Esq his Lops Attorney Grall agst James Neale Esq one of his Lops Counsell, Capt Thomas Cornwaleys Esq, Edward Packer late sheriff, and John hampton planter.

That whereas on the 18th of this instant month, one Richard Ingle (mr of the good ship called the Reformation, now riding at anchor in St. Georges river) was by the Leitent Grall committed to the custody of the said sheriff, for certaine matters of high-Treason informed agst him by one William Hardige tailor, and the said ship & goods seised into his Lops hands, & a guard putt upon the ship by the said Lieut Grall under the comand of the said John hampton, wth expresse charge not to pmitt the said Rich: Ingle to come aboard, without warrant of him the Lieut Grall Nevertheless he the said Sheriff on the day aforesaid without any order or consent of the said Leiut Gen: carried the said Richard Ingle aboard this said ship, and they the said Thomas Cornwaleys & James Neale, did consent, accompany, advise, & aid him therein; and further did pswade the said John hamton to discharge & disarne the said guard, saying All is Peace: whereupon and upon other his owne motion, the said John hamton did will the said Rich: Ingle & his seamen whereby the said Rich: Ingle possessed himselfe againe of his said shipp, & hath escaped out of the said Sheriffs custody. And this rescuous of the said ship, and escape of the said Rich: Ingle in maner aforesaid, was done & caused by the said parties, after their knowledge that he was accused & arrested of Highe Treason. to the great contempt of his Lops authority in the Leiut. gen: The ill example of others, and contrary to the peace of or Soveraigne Lord the king, his crowne & dignity.

And of this Resceuon and Escape of an offendour imprisond for highe Treason, the said Attorney impeacheth the said severall pties respectively, and prayeth that such pceedings & judgmt agst them be done therein as justice requireth.¹³

On January 21, Brent sent a summons to these men to answer to this charge within three days at the latest under pain of contempt and any further penalties that the law might inflict.

¹³ *Ibid.*, pp. 232-3.

Information touching these matters were forthcoming from various persons. The first information contained in the suit was that of Hardige, who stated that at various times he heard Ingle say that "he was Captaine of Gravesend for the Parlamt agst the [King]"; that sometime in February, 1642, at Accomack, Ingle, having been commanded in the King's name to come ashore, refused to do so in the name of Parliament. Standing on board his ship he drew his cutlass threatening to cut off the head of any who should try to force him to do so. Hardige told the Attorney that one Richard Pinner could testify that Ingle had said in the presence of others that King Charles was no king or words to that effect.¹⁴

On January 29, information was communicated to Lewger by Daniel Duffill, regarding Cornwaleys' part in the escape of Ingle. He stated "that the said Captaine [Cornwaleys] coming aboard mr Ingle's ship, said to Jo. hamton All is Peace, & willed him that all was quiett & peace & willed the said Jo: hamton to goe out to the rest of the gard & will them to deliver up their armes to the gonner of the ship."¹⁵

The trial of the accused parties began on February 5, 1643. A jury was sworn in and the accusations against Ingle brought forth. The jurors could not agree on the various accusations of Hardige and toward evening prayed to be discharged. Their request was granted.¹⁶

On February 8th, Lewger brought forth his charge against Neale and Cornwaleys in practically the same form as given above. The Captain replied to the charge against him "that he did well understand the matters charged agst the said Rich: Ingle to be of no importance but suggested of meere malice of the accuser william hardige, as hath appeared since in that grand Enquest found not so much probability in the accusations as that it was fitt to putt him to his triall." Cornwaleys, according to his defence "supposed and understood" that Ingle went on board the ship with the consent of the Lieutenant General and his Counsel

¹⁴ *Ibid.*, pp. 233-4.

¹⁵ *Ibid.*, p. 234.

¹⁶ *Ibid.*, p. 245.

and of the officer in whose custody he was. He then denied that he was guilty of allowing the escape of Ingle in the way charged to him. He therefore prayed to be dismissed.¹⁷

From this evidence, it is clear that the Captain did not consider Ingle culpable with regard to the treasonable utterance alleged against him. His argument was substantiated by the fact to which he refers as the grand Inquest, that the jury could not agree for a whole day on these very charges against Ingle, and consequently the members, on their own request, were dismissed. With regard to Cornwaleys' impression that Ingle went on board his ship with the permission of the Lieutenant General and Counsel and of the Sheriff, it is quite possible that he took it for granted that Neale and Packer were acting under approval of the authorities. On the other hand, Packer later excused himself on the plea that Cornwaleys and Neale were sufficient guarantee to him of Ingle's license to board his ship. Russell inclines to the view that the Captain was hoodwinked by Ingle, who made use of Cornwaleys' kind offices to effect his release and escape.¹⁸

On the following day we find the following entry upon the records of the Provincial Court:

1643

Febr: 9. upon instance of Capt Tho. Cornwaleys, to be dismissed the Cort without further delay the L. G. demanded of his Lops attorney, his opinion in point of law, whether accessary to rescue of one imprison'd for suspition of highe treason, were to be proceeded agst in this Prov: according to the rule expressed in or Lawes, in bar implied to the Law of England; or according to the law of Engl. and the Attorney delivered his opinion that the Court is bound to proceed according to the Lawes of this Province, both by his Lops Commission, & by their oath; (so far as the Attorney doth judge or understand:) althoughe they have a bar implied to the law of England.¹⁹

¹⁷ *Ibid.*, p. 248.

¹⁸ Russell, *Maryland the Land of Sanctuary*, p. 177.

¹⁹ IV—Archives, p. 249.

After considering the case as presented before the Court, the Lieutenant General pronounced sentence upon Captain Cornwaleys. He was found "to be accessory to the rescous & escape charged; & adjudged . . . to lose to the Lord Proprietary one thousand pounds of tobacco."²⁰ Cornwaleys then requested that the levying of the fine be postponed. This was granted and his Lordship's Receiver was commissioned to "respite the levying of the fine till further order."²¹

On February 29th, the Sheriff of St. Mary's was ordered to collect the fine imposed. The order reads:

Levie one thousand pounds of tobacco on any the goods or debts of Capt Tho. Cornwaleys for so much adjudged by way of fine unto the Lord Proprietor agst him at the Court held on the 9th febr last, & deliver it so leavied into the hands of the Attorney of mr John wyatt Comder of Kent in discompt of so much due to the said Comder from the Lo: Proprietor and for so doing this shalbe yor warrt And this writt exequuted returne it into the Court at St maries.

GILES BRENT.²²

The fine of the Captain is reported "paid" in the account of Lewger for the year 1643.²³

We will now ascertain what happened to the other actors in the Ingle episode. Neale, in answering to the accusations against him, affirmed that he never took Richard Ingle into his charge, nor did he aid him in his escape. The Court thereupon reinstated him in his office as Councillor.²⁴ Packer, the sheriff, alleged that when he saw Cornwaleys and Neale bringing Ingle with them from the house of Brent, he concluded that their action was done with official approval. Furthermore, he alleged that Ingle escaped from his custody against his will. He too was exonerated.²⁵ Hampton escaped prosecution, presumably, for there is no further record of any action taken against him.²⁶ Thus Cornwaleys

²⁰ *Ibid.*

²¹ *Ibid.*

²² *Ibid.*, p. 255.

²³ *Ibid.*, p. 275.

²⁴ *Ibid.*, p. 258.

²⁵ *Ibid.*

²⁶ Ingle, *op. cit.*, p. 19.

was made to bear the brunt of the prosecution. It is singularly strange that the Captain was obliged to pay a heavy fine while the others were allowed to go free. The feeling in the colony was so strong against him that he was compelled to embark with Ingle for England.²⁷

Governor Calvert returned to Maryland in September, 1644. In February of the same year Ingle again appeared with an armed ship, the *Reformation*, having goods entrusted to him by Cornwaleys, valued at two hundred pounds. He also carried a commission from Parliament for carrying food, clothing and ammunition to the colonists in sympathy with the Parliamentary party.²⁸ St. Mary's was then taken. Governor Calvert was forced to flee to Virginia. For two years, Ingle and his band, with such lawless persons as they could get to join them, had possession of the southern part of the Province.²⁹ According to statements made in the Assembly of 1649, during this invasion, those who remained loyal to Lord Baltimore, "were spoiled of their whole Estate and sent away as banished persons out of the Province; those few that remained were plundered and deprived in a manner of all Livelyhood and subsistence only Breathing under that intolerable Yoke which they were forced to bear under those Rebels."³⁰ The people were tendered an oath of submission, which all the Catholics refused to take.³¹ In consequence of this refusal, they were severely treated, some being banished and others voluntarily leaving the colony. The two Jesuits, Fathers White and Copley, were sent in chains to England.³²

²⁷ *Ibid.*

²⁸ *Ibid.*, p. 20.

²⁹ Browne, *op. cit.*, p. 130.

³⁰ *I—Archives*, p. 238.

³¹ Streeter, *Papers relating to the Early History of Maryland*, p. 267.

³² Winsor, *History of America*, Vol. III, p. 532. Fathers White and Copley, upon their arrival in England, were indicted under the penal laws, for having been ordained priests abroad and coming into England and remaining there as such, contrary to the statute, a crime punishable with death. When brought to trial, they pleaded that they had been brought violently into England, and had not come of their own will, but against it. The judges directed an aequittal. They were not, it would seem, liberated at once, but were detained in prison and finally sent out of England under an order of perpetual banishment. Father White never returned to his beloved Maryland; Father Copley returned in 1648. (Cf. Shea, *History of the Catholic Church in the United States*, Vol. I, pp. 63 *et seq.* and 69.)

Towards the close of 1646, Governor Calvert, who had been watching the progress of events from Virginia, deemed that the time was ripe for a counter revolution. He appeared at St. Mary's at the head of a small force levied in Virginia, and regained possession of his government without resistance. Ingle left Maryland, and the people returned to their allegiance with marked alacrity. The most lasting evil caused by Ingle's rebellion was the destruction of the greater part of the then existing records. Due to this fact, much of this whole episode remains involved in obscurity.³³

Ingle's baseness is best shown in his treatment of Captain Cornwaleys who had befriended him. The record of this perfidy is preserved for the historian in the *Archives of Maryland*, which contain the account as given in the *House of Lords Journal*. The account also reveals the fact that religion entered into the uprising of Ingle in Maryland and that it was not merely a political move in favor of Parliament against the King. It serves also to show that Cornwaleys' allowing Ingle to escape from the hands of the law was caused by the Captain having an inadequate comprehension of Ingle's machinations as he testified before the Provincial Court.

On February 24, 1645, Richard Ingle presented a petition "To the Right Honorable the Lords nowe in Parlyament assembled." In it he alleges that when he arrived in Maryland he found that the Governor there had received a commission to seize all the ships and goods of those friendly to Parliament, to force an oath upon them and to secure their extirpation. The petitioner avers that he deemed himself bound in fidelity to Parliament to risk all to come to the aid of the "well affected Protestants, against the said Tyranicall Governor and the Papists . . . to anable him to take divers places from them and to make him a supporte to the said well affected." The petition contains the following relative to Cornwaleys:

But since his Ingle's Retorne into England the said
Papists and Malignants conspiring togeather have

³³ Winsor, *op. cit.*, pp. 532-3.

brought fictitious Actions against him att the Comon Lawe in the name of Thomas Cornwallis and others for pretended Trespasses.³⁴

Ingle concludes by affirming that "it would be of dangerous example to pmitt Papists and Malignants, to bring Action of Trespass, or otherwise against the well affected for fighting and standing for the Parlyament."³⁵ The whole burden of the petition is to request the Lords to hold a hearing of the case or to refer it to a Committee to report on the true state of things and to order that the suits against the petitioner be stayed and no further proceeded in.³⁶

On March 2, 1645, we find the following entry relative to the case of Cornwaleys versus Ingle:

Thomas Cornwallis plt [plaintiff]
agst

Richard Ingle defte [defendant]

Cornwallis planted himself divers yeares since in the Pvincie of Maryland in Americe, And about two yeares since Ingle came thither as Mr of a London Shipp to trade in those parts wth the English who had planted there and was there accused of high Treason for wordes whch he had spoken agst the King upon some Comunicaeon of the differences here between the King and Parliament upon wch accusacon Ingle was arrested and his Shipp and goods seised by the then Governor but Cornwallis to declare his affecon to the Parliament found meanes within 8 howers space to free Ingle and to restore him to his Shipp and all his goods againe, for wch fact the greatest fine that by ye Lawes of that Country there imposed uppon Cornwallis and hee compelled to pay the same And then for the safety of his person enforet to trust his whole estate there wth a Servant and flie hither wth Ingle in the same Shipp And when Cornwallis came into England Ingle gave Testimony before a Comittee of his good affeccion to ye Parlaiement and of his great sufferings for that Cause.

Afterwards Ingle goeing into those pts againe Cornwallis entrusted him here in London by way of Trade wth diverse Comodities to the value of about 200 pounds but Ingle kept the Commodities, and takeing advantage of Cornwallis his absence landed

³⁴ III—*Archives of Maryland, Council*, p. 165; *Lords' Journal*, viii, pp. 183, 186.

³⁵ *Ibid.*, p. 166.

³⁶ *Ibid.*

some men nere his howse and rifled him to the value of 2500 pounds att the least And then returning into England complained before the Committee of Examinacons agst Cornwallis as an enimy to the State vainely hopeing by that meanes to shelter himselfe from the Law, but upon full debate of the businesse before that Comittee Cornwallis was referred to his remedy att Law, and hath brought an accon att Lawe agst Ingle for the Comodities delivered here, and peured a Comission out of the Chancery to examyne witnesses of the value of the goods taken in Maryland.

To stay these pceedings Ingle caused Cornwallis to be laid in prison uppon 2 faigned accons of 15000 pounds but Cornwallis by the helpe of his friendes gott out of prison And that piect [project] faileing Ingle prferrd a peticon agst Cornwallis before the Lordes in Parliamt And upon fayned allegacons hath peured an Order to stopp Cornwallis his pceedings att the Lawe till the matter conteuned in the peticon be determined And nowe Ingle absents himselfe and psecutes noe further upon his peticon. And now Cornwallis hath peticoned the Lordes that in regard hee hath attended severall dayes wth Councell and is noe longer able to beare that charge, that the businesse may be speedily heard and determined by their Loppes or that hee may be left att Liberty to try his accon att Lawe for the goods delivered to Ingle here.³⁷

This account speaks for itself. It contains the recitation of the wrongs Ingle perpetrated against the Captain. It was thus that he was repaid for his kindness. And Ingle to clear himself poses as a champion of Parliament, as a liberator of the colonists from a tyrannical Governor, as a warrior for the Protestant cause against the oppressions of the “Papists and Malignants.” All this was done by Ingle to set at naught the charges which Thomas Cornwaleys brought against him. The state to which the Captain was reduced by the ingrate was such that he was “spoyld of all his goods and ruyn’d by the said Ingle.”³⁸

At the same time that these affairs were transpiring, a petition was also addressed to the Lords in Parliament by

³⁷ *Ibid.*, pp. 166–7.

³⁸ *Ibid.*, p. 170.

one Mary Ford, on behalf of the Protestant inhabitants of Maryland and Virginia. In it Cornwaleys is accused of being the chief actor in a design for the settling of a "Popish faction in Maryland." Several trumped up charges are brought against him that are so absurd that it is not necessary to recount them. In fact the Captain is even accused of the seizure of Ingle's ship when he was really the man judged responsible by the Maryland authorities for allowing that individual to escape.³⁹

How this matter between Ingle and Cornwaleys was settled does not appear.⁴⁰ On September 8, 1647, however, Richard Ingle transferred to Cornwaleys "for divers good and valuable causes" the debts, bills, etc., belonging to him, and made him his attorney to collect the same.⁴¹

Much might be said in extenuation of Cornwaleys' act in allowing the escape of Ingle from the hands of the Maryland authorities. According to his own testimony he certainly must be acquitted of much of the blame for this act. In the

³⁹ *Ibid.*, pp. 168-9 and 171.

⁴⁰ Further references to the Cornwaleys-Ingle case are the following:
Cause of Ingle and Ford vs. Cornwaleys, set for Mar. 14, 1645-6. *L. J.*, Vol. viii, p. 206.

Mar. 31, 1646. Petition of Cornwaleys to Lords, mss. of the House of Lords; calendared in Historical Manuscripts Commission, *Sixth Report*, appendix, p. 109; *III—Archives*, pp. 170-1.

Mar. 31, 1646. Cause postponed two weeks. *L. J.*, viii, 247.

Apr. 14, 1646. Hearing again postponed. Cornwaleys being ready, damages will be given him if it shall be thought fit at the trial.

Apr. 25. Petition of Mary Ford vs. Cornwaleys. mss. of House of Lords; calendared Hist. MSS. Comm., *6th Rept.*, app. p. 113; *III—Archives*, p. 171.

Apr. 25. Cause to be heard Tuesday next. *L. J.*, viii, 283.

Apr. 28. Again postponed to May 15. *L. J.*, viii, 288.

May 15. Postponed "Wednesday come sevennight." *Ibid.*, p. 315.

May 22. Petition of Cornwaleys to Lords. Hearing having been set for May 27, which being fast day (monthly fast appointed to be kept on last Wednesday of every month; *L. J.* v., 320), asks that some other day be appointed. Complains of delays and the expense to him. mss. of House of Lords; calendared as above, p. 117.

May 22. Trial to be had Wednesday next. *L. J.*, viii, 324.

Further postponements to June 11, July 2, 9, Oct. 16. *L. J.*, viii, 336, 369, 406, 424.

All papers relating to the Ingle-Cornwaleys controversy before the House of Lords will be published in full in the first volume of Dr. Leo F. Stock's forthcoming work, *Parliamentary Proceedings and Debates relating to America*.

⁴¹ Ingle, *op. cit.*, p. 33.

first place he did not believe that the accusations were so well founded with regard to the treasonable utterances of Ingle. Again, he acted under the impression that Ingle was allowed to depart by Brent and his Counsel. Whatever be the merits of this defense of Cornwaleys, this much is certain, that he got more than his deserts from the authorities in the colony. Furthermore, he was subjected to being made the proxy of all Ingel's vengeance against the Maryland authorities by being held responsible by that man for all the alleged crimes which Ingle brought against them. Though he may have been vindicated, which is by no means certain, nevertheless, he was forced to undergo imprisonment and the ordeal of a lawsuit to clear himself.

CHAPTER XII

FINAL SERVICES TO THE COLONY

The Ingle disturbance having ended, the colony settled down to peaceful pursuits. The Governor, Leonard Calvert, was not to enjoy the fruit of his successful effort to restore tranquility. He died on June 9, 1647, at the little capital of St. Mary's which he had founded, and where he had exercised with wisdom and moderation, the highest executive and judicial offices. On his death-bed, he appointed Thomas Greene, a Catholic and a royalist, his successor. The new executive proclaimed a general pardon to those in the Province who had a share in the late rebellion and also to all those who had fled from the colony, except Richard Ingle.¹

The monarchical cause was now prostrate in England. With Parliament supreme, Cecilius Calvert saw a great danger threatening his colonial domains. He deemed it prudent to make it impossible for his enemies to allege that Maryland was a Catholic colony. At the same time he felt it his duty to protect those of his own faith. He accordingly adopted a policy that was one of conciliation to the Puritans as well as of protection to the Catholics. In August, 1648, he removed Governor Greene, and appointed William Stone to the post. The new official was a Virginian, a zealous Protestant and a Parliamentarian. At the same time the Proprietor issued a new commission for the Council of the Province, appointing five men to form that body, three of whom were Protestants. A Protestant Secretary was also nominated.²

The Governor and Counsellors were required to swear that they would not molest any person in the Province professing, to believe in Jesus Christ, and in particular no Roman Catholic.³ In the year 1649, the Assembly of Maryland

¹ Winsor, *History of America*, Vol. III, p. 533.

² *Ibid.*

³ *Ibid.*, pp. 533-4.

passed the Act concerning Religion, or “Act of Toleration” as it is often called, which enforced by statute what had been the policy of the Proprietary from the beginning. Penalties are prescribed for “whatsoever person or persons within this Province . . . shall from henceforth blaspheme God, that is curse him, or deny our Saviour Jesus Christ to be the sonne of God, or shall deny the holy Trinity the ffather sonne and holy Ghost, or the Godhead of any of the said Three persons of the Trinity or the Unity of the Godhead, or shall use or utter any reproachful Speeches, words, or language concerning the Holy Trinity; . . . whatsoever person or persons shall . . . utter any reproachfull words or Speeches concerning the blessed Virgin Mary the Mother of our Saviour or the holy Apostles or Evangelists.” It also punishes all who shall call others by reviling names on account of religious differences. Profanation of the Sabbath became a penal offence. Furthermore no person was to be molested who professed a belief in Jesus Christ. The free exercise of religion was provided for. Any infringements on these provisions of the statutes were to be punished in proportion to the offence as provided by law.⁴

Just when Captain Cornwaleys returned to Maryland after his long absence cannot be definitely stated. About the latter part of the year 1652, he appeared in Court to seek redress for injury done his servants and property during the Ingle uprising. Accordingly he addressed a complaint to the Governor and Council of the Province touching this matter. We will give the account in full as recorded in the records of the Court as it throws much light on the possessions of the Captain.

The Humble Complaint of Thomas Cornwallis
Esq against Thomas Sturman & John Sturman
Coopers & William Hardwich Taylor.
Sheweth.

That Whereas it is well knowne that the Compt
was one of the Chiefe and first Adventurers for the

⁴ *I—Archives of Maryland, Assembly, pp. 244-7.*

planting of this Province, and therein besides the danger and hazard of his Life and health, Exhausted a Great part of his Estate not only in the first Expedition, but alsoe in yearly Supplyes of Servants and Goods for the Support of himself and this then Infant Collony by which and Gods Blessing upon his Endeavours, he had acquired a Settled & Comfortable Subsistance haveing a Competent Dwelling house, furnished with plate Linnen hangings bedding, brass, pewter and all manner of Houshold Stuff worth at the least a thousand pounds; about twenty Servants, at least a hundred Neat Cattell a Great Stock of Swine and Goats Some Sheep and horses, a new pinnace about twenty Tunn well rigged and fitted besides a New Shallop and other Small boates, with divers debts for Goods Sold to the quantity of neare A Hundred thousand weight of Tobacco, all of which at his going for England in or about Aprill 1644 he left and deposited in the Care and Custody of his Attorney Cuthbert ffenwick Gent, who in or about february following comeing from the Ship of Richard Ingle Marriner was as Soon as he Came ashore, Treacherously and Illegally Surprized by the Said John Sturman and others, and Carryed prisoner aboard the said Ingles Ship, and there detained and Compelled to deliver the Complts house, and the rest of the premissess into the possession of Divers ill disposed persons whereof the Said Tho: and John Sturman and Wm Hardwich were three of the Chiefe, who being Soe unlawfully possest of the Said house, and the premisses plundered and Carryed away all things in It, pulled downe and burnt the pales about it, killed and destroyed all the Swine and Goates, and killed or mismarked almost all the Cattle, tooke or dispersed all the Servants, Carryed away a Great quantity of Sawn Boards from the pits, and ript up Some floors of the house, And having by these Violent and unlawfull Courses, forst away my Said Attorney, the said Thomas and John Sturman possest themselves of the Complts house as their owne dwelt in it Soe long as they please and at their departing tooke the locks from the doors, and the Glass from the windowes, and in fine ruined his whole Estate to the damage of the Compt at least two or three thousand pounds, for which he humbly Craves the Justice of this Court against the said Tho: and John Sturman and Willm Hardwich towards the repaires of his Great Damage and loss wherein they have been no Small Shares.⁵

⁵ X—*Archives of Maryland*, Court, pp. 253-4.

Both parties in this law suit agreed to postpone the hearing of this case until the next General Assembly.⁶ What the further developments of the case were cannot be well determined as the records do not contain much reference to the same. However, an entry on the Court records dated March 6, 1653, tells us that two arbitrators, William Stone and Thomas Hatton, decided that several payments in tobacco were to be made by John Sturman on his own behalf and that of his father to the Captain. This was done to satisfy for all differences between them and Cornwaleys "heretofore depending in Court or referred to Assembly."⁷

About this time Cornwaleys presented a petition to the authorities to secure the land due to him for transportation of servants at various times. The document states: "It is well known, he Cornwaleys hath at his great cost and charges, from the first planting of this Province for the space of twenty-eight years, been one of the greatest propagators and increasers thereof, by the yearly transportation of servants, whereof divers have been of very good rank and quality, towards whom and the rest he hath always been so careful to discharge a good conscience, in the true performance of his promise and obligations, that he was never taxed with any breach thereof, though it is also well known and he doth truly aver it, that the charge of so great a family, as he hath always maintained was never defrayed by their labor"⁸

The list of the Captain's servants will not prove uninteresting to the reader. The same was compiled from the accounts in Richardson's *Side-lights on Maryland History* and Neill's *Founders of Maryland*. Both these authors make their citations from the Annapolis Records.⁹

Regarding the first servants of the Captain to arrive in the colony, we find the following entry on the records, made in February, 1652: "A list of persons brought into the Province

⁶ *Ibid.*, p. 234.

⁷ *Ibid.*, p. 348.

⁸ Neill, *Founders of Maryland*, pp. 80-1.

⁹ Richardson, *Side-Lights on Maryland History*, pp. 8-15; Neill, *op. cit.*, pp. 77-9.

of Maryland at the cost and charges of me, Thomas Cornwalleyes, Esq., since the first seating in Anno 1634 [new style], to this year, 1652, for which I demand land according to the conditions of Plantations from time to time; Anno 1634, transported in the *Ark* myself and 12 servants. By my partner, Mr. John Sanders, who dying gave me that year, 5 servants. Brought the same year from Virginia, four servants, viz: Cuthbert Fenwick, Christopher Martin, John Norton, Senior, John Norton, Junior, so in all that year, 2 and 20 persons.”¹⁰

Who the twelve men were does not appear. The five servants of Sanders referred to are: Benjamin Hodges, John Elkin, Richard Cole, Richard Nevill, John Marlburgh.¹¹

The following were brought over to the colony in various years as indicated:

1633. (O. S.) John Hollowes, John Holdern, Roger Walter, Roger Morgan, Josias . . ., Thomas Beckworth, Matthew Burrowes, Samuel . . ., Cuthbert Fenwick, Richard Loe, William Fitter, John Robinson, William Browne, Stephen Gore, Stephen Jammison and Stephen Sammon.¹²

As Richardson was only concerned with the first settlers, we complete our list from Neill's account. It is to be noted that this author uses the new-style date.

1635. Zachary Mottershead, John Gage, Walter Waterling, Francis Van Eyden, William Penshoot, Richard Cole, John Medley, Richard Brown and Richard Brock.

1636. John Cook, Thomas York, Daniel Clocker, Richard Hill and Restitutia Tue.

1637. Charles Maynard, Stephen Gray, Francis Shirley, Ann Wiggin and Alice Moreman.

1639. Nicholas Gwyther, Edmund Jaques, Richard Farmer, Edmund Deering, George . . ., William Freak, Morris Freeman, Jeremiah Coote and Martha Jackson.

¹⁰ Richardson, *op. cit.*, pp. 14-5; O'Daniel, *The Right Rev. Edward Dominic Fenwick, O. P.*, inclines to the opinion that Cuthbert Fenwick came to Maryland on the *Ark*. He substantiates his argument by two records to this effect against one record that he was brought from Virginia. For the three records, see Richardson, *op. cit.*, pp. 12, 14, 15.

¹¹ Richardson, *op. cit.*, pp. 11-2.

¹² *Ibid.*, pp. 12 and 14. Stephen Sammon and Stephen Jammison are probably the same person. The two entries list ten names which are identical except the last. In one entry it gives Sammon and in the other Jammison.

1640. William Durford, Henry Brooke, George . . . , Edward Matthews and Hannah Ford.

1641. Francis Anthill, Richard Harvey, Charles Rawlinson, Richard Harris, Thomas Harrison, Edward Ward, Robert King, Mary Phillips, John Wheatley and his wife.

1642. Thomas Rockwood, John Rockwood and Elizabeth Batte.

1646. Magdalene Wittle.

1651. Robert Curtis, William Sinckleare, Thomas Frisell, William Wells, John Maylande, John Eston and Sarah Lindle.

Besides the lists of the servants of Captain Cornwaleys, we are also able, from various sources, to give a list of the different tracts of land acquired by him during the years of his sojourn in Maryland. His estates will appear in the order of their acquisition.

Cornwaleys Cross, a tract of two thousand acres surveyed on September 19, 1639, and located near St. Mary's. Cornwaleys usually resided at the *Cross*.¹³

St. Elizabeth's, a tract of the same extent as the *Cross*, surveyed at the same time.

West St. Mary's Mannour, a tract of two thousand acres, surveyed September 20, 1640.

Resurrection Mannour, a tract of four thousand acres, surveyed March 24, 1650.

Nuthall, a tract of two hundred acres, surveyed July 28, 1654.

Cornwaleys' Choice, a tract of one thousand acres, surveyed August 16, 1658.

Verina, a tract of one thousand acres, surveyed August 21, 1658, for Captain Cornwaleys. Possessed by Daniel Pierce, William Freeman, Samuel Bostic, James Wilson, William Smith and John Wilson.¹⁴

Cornwaleys also possessed a tract known as *Cornwaleys' Neck*, located in St. Mary's County. What the extent of

¹³ Davis, *The Day-Star of American Freedom*, p. 209.

¹⁴ Richardson, *op. cit.*, pp. 288, 290, 291, 292, 294; also Streeter, *Papers relating to the Early History of Maryland*, p. 203; Kilty, *The Land-Holders Assistant*, p. 70.

this tract was, we have been unable to find. On March 7, 1642, the colonial surveyor was ordered to lay out four thousand acres "in any part of Patowmack river, upward of Port Tobacco Creek." This may have been the tract known as *Cornwaleys' Neck*.¹⁵

Having digressed at some length to examine the possessions of Captain Cornwaleys, we now continue our narrative.

During Governor Stone's incumbency, several Indian tribes again became troublesome. The incursions were of such a nature as to cause the inhabitants of the colony to petition the Governor to take measures for the adequate protection of their lives and property. Stone at once responded to their request. Not content with consulting his Counsel, he decided to call upon several men whose sound judgment and experience in Indian warfare particularly qualified them to give advice in such an emergency. Among these, after a long disappearance from the stage, Thomas Cornwaleys again comes forward in his old character of trusted adviser, and one of the firm bulwarks of the colony.¹⁶

At a Court session held at St. Mary's, on November 25, 1652, the Governor and Council, together with Cornwaleys and others whose advice and assistance was desired, deliberated on an expedition against the Indians. As a result of this meeting, it was decided that sufficient forces be levied for a march against the eastern shore Indians. For this purpose, every seventh man throughout the Province was to be called into the service, councillors and other public officers being excepted. The six persons not drafted, were to supply the seventh with provisions, arms, and ammunition. All were to rendezvous at Kent Island by December 30th, where they were to be commanded by Captain William Fuller. This gentleman was the principal military man among the Parliamentarians of the Province. He came over from Virginia with the Puritan settlers in 1649.¹⁷

¹⁵ Streeter, *op. cit.*, pp. 166 and 190.

¹⁶ *Ibid.*, p. 194.

¹⁷ III—*Archives of Maryland, Council*, p. 282; also Streeter, *op. cit.*, pp. 194-5.

Just why the veteran Cornwaleys was not chosen for the leadership of this movement is not known. Streeter thinks that the reason was due to previous hard service, ill health, or wounds received in previous expeditions. He also considers it likely that the appointment of Fuller was more opportune since he resided nearer the scene of the proposed operations. He was popular in that quarter where a considerable part of the force was to be drawn, and consequently was better fitted than an inhabitant of another part of the colony.¹⁸

This Indian expedition was destined to fall through as so many previous ones. Divers obstacles arose, rendering it impossible to collect a sufficient force for the project. Fuller was very willing to undertake the commission entrusted to him. The principal objection on the part of the settlers was the season of the year. During the winter it was hard to obtain provisions and they thought that they would suffer more from climatic hardships than from the assaults of the savages. Besides, some of the Indians had become aware of the design and were ready to meet the colonists in an engagement. Stone decided to abandon the scheme for the time being and, on December 18, 1652, directed those who had assembled to return to their homes.¹⁹

According to Neill, Cornwaleys visited England in 1654. He stated that while there, probably in 1657, he married a young maiden, Penelope, daughter of John Wiseman of Middle Temple, and Tyrrels, in County Essex. She was then twenty-one years of age. We are of the opinion that Neill is mistaken with regard to the marriage of Cornwaleys as shown in the first chapter of this biography.

Matters about this time looked ominous for the Maryland province. Ingle was besieging Parliament with petitions, complaints and charges. Claiborne again was active and even boasted that the Maryland Charter would be annulled and he would have Kent Island, Indian disturbances were

¹⁸ Streeter, *op. cit.*, p. 195.

¹⁹ *Ibid.*, pp. 195-6.

threatening, while the enemies of Maryland in Virginia were full of hope. These troubles were due to the disturbed condition of affairs in the mother country. The charge that Maryland was groaning under Popish tyranny was again brought forward. To answer this last charge, the Maryland Governor as well as many prominent Protestants in the Legislature and other citizens, all Protestant, drew up a declaration that they were in no wise molested on account of their religion, in which they were protected by both the law of the land as well as by the strict injunctions of the Proprietary.²⁰

When Cromwell took upon himself the title of Lord Protector of the Commonwealth, Governor Stone, early in May, 1654, proclaimed him with the firing of cannon, a proclamation of pardons and other manifestations of joy. Dissatisfaction, however, at some of the Proprietary's laws were felt in some quarters. The people of the Patuxent and Severn Rivers, and of Kent, strongly objected to the terms of an oath of fidelity to Lord Baltimore, required of those who held lands. Some, acting under orders from the Proprietor, insisted that they take the oath or forfeit their lands. Furthermore, the Governor refused to issue writs in any other name than that of Lord Baltimore. Petitions were sent to Bennett and Claiborne, two leaders in a movement to have Lord Baltimore removed from jurisdiction of his Province, and to have the old Charter of Virginia renewed. Finding Stone determined in his course, these two men came into Maryland in July 1654, and compelled him to resign. They then placed the Government in the hands of ten commissioners, at the head of whom was Captain Fuller. After this they returned to Virginia. Bennett went to England to assist in furthering the Virginia cause before the Lord Protector.²¹

Thus matters stood until March, 1655, when a cutting reprimand from the Proprietary aroused Stone. He resumed his title and official functions, as Governor, and gathered an armed force to proceed against the malcontents. A fight

²⁰ Browne, *George and Cecilius Calvert*, pp. 140-1.

²¹ Streeter, *op. cit.*, pp. 198-9.

ensued in which Stone was utterly defeated, many of his men slain, and several afterwards executed by the victors.

The Province after this remained for some time under the control of Fuller and his party, though occasionally disturbed by Captain Josias Fendall, in behalf of the Proprietary. Fendall on July 10, 1656, was appointed Governor with Philip Calvert, brother of Cecilius Calvert, who was sent over, as Secretary. Thus the Province was under a divided rule, some recognizing Fuller and others, Fendall.²²

In June, 1657, Fendall sailed for England, leaving the control of affairs at St. Mary's in the hands of Dr. Luke Barber. Whilst there, Lord Baltimore and the agents of Virginia in England discussed a compromise. As a result of this meeting, Calvert promised the party of opposition in the colony that, in case they recognized his officers and laid aside all claims to authority, and promised to surrender the records and the great seal, and forget past controversies, he would modify the oath of fidelity for those wishing to take up lands and would never consent to a repeal of the Act of Toleration.²³

Upon Fendall's return, he called a meeting of the Counsel of the Province at St. Leonard's, on March 18, 1657, at which Captain Cornwaleys, who had returned to Maryland in the meantime, was present as Assistant to Governor Fendall and Secretary Calvert. At this meeting Fendall made known the terms of the agreement with the Proprietary that resulted from the meeting in England.²⁴ Among the instructions brought back by Fendall was one in which he was ordered in the performance of his duties as Governor, always to proceed with the advice of his Secretary, Philip Calvert. In case the Secretary was absent from Maryland; or in case he fell ill, or was otherwise prevented from acting, then the Governor should act with the advice and approbation of Captain Thomas Cornwaleys. Furthermore, in case of attestations of grants, the Captain and two others of the Council should

²² *Ibid.*, pp. 199-200.

²³ *Ibid.*, pp. 200-1.

²⁴ *III—Archives*, p. 334.

sign them. The effect of this order was to make Cornwaleys, in the absence of Calvert, Secretary of the Province.²⁵ As a result of the meeting of March 18th, peace was again restored. Fuller recognized the authority of Fendall as Baltimore's only true and authorized representative, on the last day of the year 1657. Thus Captain Cornwaleys, after many years of varied experience in the toils, hardships and vicissitudes of colonial life, had the satisfaction of crowning his active and useful labors, by a participation in the negotiations that brought about this happy result, and of receiving from Lord Baltimore a recognition of his claims to his gratitude and respect, in his appointment, in case of necessity, to discharge the offices of the second official in the Province.²⁶

Few memoranda remain on the records of the Province from now on regarding Captain Cornwaleys. In fact, with the last mentioned episode, ends the story of his personal connection with the colony. Streeter says of him: "After twenty-five years of persevering labor, which had been rewarded by the accumulation of a handsome estate, of honesty and promptitude in his private dealings, and firmness and courage in his public services, which had won for him the favor and respect of the people, he prepared, with the general regret of the colonists to return to England." There, in the land of his birth, he was to take up his residence and to spend his declining years.²⁷ Leaving his ample estate under the control of Richard Hotchkeys, empowered to act as his sole attorney for its management, the Captain, with his wife, sailed for England, on June 2, 1659.²⁸

A few entries on the colonial records tell us that the management of his estates was not unattended by inconveniences. In fact, in one case at least, he had sufficient reason to complain of the ingratitude of one whom he had befriended. At a meeting of the Council held at Resurrection Manor, on

²⁵ *Ibid.*, p. 338.

²⁶ Streeter, *op. cit.*, pp. 202-3.

²⁷ *Ibid.*, p. 203.

²⁸ *III—Archives*, p. 381.

December 12, 1659, John Abington appeared as a petitioner on behalf of the Captain. This man became Cornwaleys' attorney on the death of Hotchkeys by designation of Cornwaleys. He had been appointed as agent to receive payments of tobacco for him. When his debtors refused to pay him, he asked for authority from the officials of the Province to confirm the appointment made by the Captain. The Council at once acceded to his request.²⁹

A few months before leaving Maryland, Captain Cornwaleys purchased a plantation belonging to John Nicholls, whom he had frequently befriended. This man had become involved in debt. At the same time, at Nicholls' earnest solicitation and as an act of kindness, he consented, though he had no need for her services, to take as a servant, Nicholls' daughter, because he was so poor that he could not support his family. Nicholls later complained that his daughter had entered the service of the Captain at the latter's earnest entreaty, that she had been hired to wait upon his wife and to be treated like his own child. Instead, he alleged, when Cornwaleys departed with his wife, the girl was left behind, and treated as a slave. On February 11, 1662, Nicholls laid these complaints before the Council of the Province. As no witness was called on the Captain's behalf, it was decided that Nicholls' charges were true and it was ordered that the girl be restored.³⁰

When Cornwaleys received information of these proceedings, he was too tenacious of his rights, and too jealous for the honor of his character to let this matter pass unnoticed. At the session of the Assembly which convened at St. Mary's, in September, 1663, under the Presidency of Charles Calvert, the eldest son of the Proprietor, William Calvert and Thomas Notley presented a petition on behalf of the Captain (September 18th). In it Cornwaleys set forth the true state of affairs. He told the Assembly just how Nicholls' daughter had come into his service and expressed his dissatisfaction at the action of the law in giving a verdict against him in

²⁹ *Ibid.*

³⁰ Streeter, *op. cit.*, p. 206.

Nicholls' favor.³¹ After the petition was read, it was ordered to be indorsed with the words "Let justice be done" and sent to the Governor for his signature.³² When the hearing of the case was to take place, Nicholls did not appear. It was then ordered that the whole case be brought up again before the Provincial Court on December 8th, 1663. Whether the case came up at that time, or how it was decided, the remaining records do not inform us. However, if the transaction was fairly investigated, the verdict was such that the well-earned reputation of the Captain for fairness and honor was completely vindicated.

Further, trace of Cornwaleys' career, as far as we have been able to ascertain, is not recorded. Neill states that he died in 1676 at the age of seventy-two. Even this is uncertain since it hinges on the question as to whether the Thomas Cornwaleys of the genealogical tree furnished by the work, *The Private Correspondence of Jane Lady Cornwallis* is the same individual as Captain Thomas Cornwaleys, Commissioner and Counsellor of Maryland.³³

Two records, one of St. Mary's County, the other of Baltimore County, tell us of one William Cornwaleys. The first is a will dated April 24, 1678; the second a record of a surveyor for laying out a tract for William Cornwallis, dated November 29, 1679.³⁴ Whether he was a son of the Captain cannot be definitely settled. Streeter thinks that this is not improbable.³⁵ The same author writes: "So disappear the generations, and so are dispersed the worldly goods of those who, in their day, have done their fellows good service. But their good deeds survive them. The remembrance of their virtues will not die out. In the present case, '*stet nominis umbra.*' As the men of the past had reason to respect the man himself, so those of the present, on a recapitulation of the deeds of his active and useful life . . . will pay a merited tribute of honor to the name of CORNWALEYS."³⁶

³¹ *I—Archives*, p. 463.

³² *Ibid.*, p. 466.

³³ Neill, *op. cit.*, p. 81.

³⁴ Streeter, *op. cit.*, p. 211; Richardson, *op. cit.*, p. 333.

³⁵ Streeter, *op. cit.*, p. 211.

³⁶ *Ibid.*

CHAPTER XIII

CONCLUSION

The planting of a colony, amid the dangers and privations of a wilderness, from the most ancient times, assumed a high rank among the heroic works of man. To the credit due to the Maryland colonists as founders of a great State, undying honor belongs to them as the founders of religious liberty in America. Among the little band that began the provincial history of Maryland on the feast of the Annunciation, March 25, 1634, Thomas Cornwaleys stands out as one of the noblest.

His career has been described in these pages. Though his ancestry cannot be ascertained with certainty, yet Captain Thomas Cornwaleys needed not the factitious blazonry of a noble lineage to support his fame. Whether we consider him as a Commissioner or Councillor, whether we study his acts in the colonial army as its commander, in the Assembly as legislator, or in the Provincial Court as judge, we are struck with the achievements of this man.

As Commissioner and later as Councillor, he was the trusted friend of the Proprietary and the able adviser of the Governor. How much Lord Baltimore relied upon him in this capacity may be gathered from the occasion when he was appointed to act as Deputy Governor, and as adviser to Governors Calvert and Fendall. His relations with Cecilius Calvert seem to have always been of a friendly nature. In his letter to him in 1638, he speaks frankly and fearlessly—the manner of procedure between friends. His connections with Leonard Calvert, too, were generally of an amicable nature, though at times he had his differences with this official.

As Captain General of the army of the colony, we find Cornwaleys an undaunted leader. In the quarrel with Claiborne, he successfully vindicated the rights of the Proprietary. In the suppression of Indian hostilities, he must be regarded as the most courageous man in the whole colony. In fact,

when the cause of the colonists' safety and protection seemed to be utterly lost due to hesitancy and indifference on the part of the colonists themselves, then it is that we find the Captain levying an army of volunteers to make a desperate attempt to end once and for all the Indian hostilities that were the bane of the settlers and the friendly tribes alike.

In the Assembly, Cornwaleys' one object was to secure lasting benefits of just and wise legislation for the good of the colony. He considered nothing so important as an assiduous devotion on the part of the members of the Assembly to carry on the business for which they met. He was a popular leader, championing the rights of the colonists on all occasions. He ever worked for the curtailing of official privilege. Above all, he strove for the securing of the right of the people to legislate for themselves. This they did achieve.

His career in the Provincial Court is marked with justice in the vindication of the laws of the Province. Though he was ever on the side of justice, he was not so stern a judge as not to feel commiseration for the guilty. Thus we find him in his letter referred to so frequently in these pages, writing to Lord Baltimore telling him of his sorrow for the fate of Thomas Smith, who was condemned to death for his part in the Kent uprising. He also tells the Proprietor of his sympathy for the wife of the doomed man. His impartiality was evidenced on all occasions, notably when he was called upon to sit in judgment on the acts of some few who disturbed the peaceful relations existing between the Protestants and the Catholics.

Cornwaleys' religion meant much to him. It was to secure freedom of worship that he left his native land. His zeal for the prosperity of the Church in Maryland has been described in the chapter on the relations between himself and the missionaries. In the annual letter of the Jesuits of 1638, cited in the chapter on Hawley and Cornwaleys, mention was made of the fact that during that year many of the prominent men in the colony performed the spiritual

exercises conducted by the Fathers. In all probability, Cornwaleys was one of their number.

We might go on at length to discuss the merits of Thomas Cornwaleys as exhibited during his career in Maryland. Enough has been said in this work to bring into bold relief the sterling character of the Captain. Though no monument has been erected to remind us of his services to Maryland, his memory should not be allowed to pass.

CHAPTER XIV

CRITICAL ESSAY ON AUTHORITIES

GENERAL WORKS

Since no account of any length has yet appeared on Thomas Cornwaleys, a variety of sources was consulted in the preparation of this dissertation ranging from works dealing with the history of America, the United States and England, to histories of various episodes and personages. The work of Justin Winsor, *History of America*, Vol. III, Boston and New York, 1884, contains a splendid account on the History of Maryland. To the study of the writer on Maryland in this critical work, Mr. Winsor has added the fruit of his own researches. In the work entitled *The American Nation*, edited by Albert Bushnell Hart, LL. D., the volume (Vol. IV) by Lyon Gardiner Tyler, LL. D., *England in America*, New York and London, 1904, a succinct account of Maryland with a very good bibliography is to be found. Henry William Elson's *History of the United States of America* (Vol. I), New York, 1905, also embraces a brief account of the period with which we dealt. English histories employed were: John Lingard, D. D., *The History of England* (Vols. VII and VIII), London, 1855; and Dodd-Tierney, *Church History of England*, Vols. IV and V, London, 1841 and 1843. The latter is a highly annotated work.

GENERAL WORKS ON MARYLAND

Standard authorities for the history of Maryland are John V. L. McMahon, *An Historical View of the Government of Maryland*, Baltimore, 1831, of which only the first volume appeared; John Leeds Bozman, *The History of Maryland* (2 Vols., Baltimore, 1837, covering the period of 1634 to 1658); J. Thomas Scharf, *History of Maryland* (3 Vols., Baltimore, 1879); James McSherry, *A History of Maryland*, Baltimore, 1852. Of these McMahon's work was found of the greatest value in considering the Maryland Charter. Bozman has written a highly documented work that is very thorough.

William T. Russell, now Bishop of Charleston, S. C., in *Maryland the Land of Sanctuary*, Baltimore, 1907, has dealt principally with the story of religious toleration in Maryland history. His book is enriched with copious references. Newton D. Mereness has contributed a valuable work on the government of Maryland in his work, *Maryland as a Proprietary Province*, New York, 1901. Other works dealing with this subject are Herbert L. Osgood's article in the *American Historical Review* (Vol. II, 1896-97), *The Proprietary Province as a Form of Colonial Government*; William Hand Browne, *Maryland the History of a Palatinate*, Boston, 1888.

SPECIAL WORKS ON THOMAS CORNWALEYS

Sebastian F. Streeter, in his *Papers relating to the Early History of Maryland*, Baltimore, 1876, gives a very good account of Thomas Cornwaleys. The chapter contains few references. However, the author has been found most reliable. A distinct feature of the Streeter Papers is the brief biographical notice he gives of the members who composed the first Assembly of Maryland of which a record has come down to us. Rev. Edward D. Neill, in a work entitled, *The Founders of Maryland*, Albany, 1876, devotes a chapter to Thomas Cornwaleys. He also wrote an article under the caption *Thomas Cornwaleys and Early Maryland Colonists*, Boston, 1889 (reprinted from the *N. E. Historical and Genealogical Register* for April, 1889). In both these productions, Neill contrary to all authorities asserts that Cornwaleys was a Protestant. The author is not free from bias and has not been used in this dissertation except in a few instances and then only with reservation and when he had other authorities to support his statements.

DOCUMENTARY MATERIAL FOR THIS BIOGRAPHY

The printed *Archives of Maryland*, published by the Maryland Historical Society, have furnished the best source material in the preparation of this dissertation. Five volumes of these colonial records contain material dealing

with Thomas Cornwaleys. They are the following: Vol. I, *Proceedings of the Assembly*, Jan. 1637–8—Sept. 1664, Baltimore, 1883; Vol. III, *Proceedings of the Council*, 1636–1667, Baltimore, 1885; Vol. IV, *Provincial Court*, 1637–1650, Baltimore, 1887; Vol. V, *Proceedings of the Council*, 1667–1687/8, Baltimore, 1887; and Vol. X, *Provincial Court*, 1649/50–1657, Baltimore, 1891. It is to be regretted that these volumes are not enriched with more copious indices.

Clayton C. Hall, *Narratives of Early Maryland*, 1633–1684, in J. F. Jameson's *Original Narratives of Early American History*, New York, 1910.

Two numbers of *The Calvert Papers* have been most serviceable. Number 1, Baltimore, 1889, contains letters of such persons as Thomas Cornwaleys, Cecilius Calvert, Governor Calvert, Father Copley and others; Number 3, Baltimore, 1889, gives *A Brief Relation of the Voyage unto Maryland*.

A manuscript of the *Public Record Office* dealing with an episode in the Ingle affair, labeled *Admiralty High Court, Libel Bundle, 108, No. 21*, is to be found in the *Library of Congress Transcripts*.

Other sources that have been valuable aids in studying the Ingle-Cornwaleys case are *Lords' Journal*, Vol. VIII, 1645–1646; Manuscripts of the House of Lords, calendared in Historical Manuscripts Commission, *Sixth Report*, London, 1877.

Besides the *Relation* referred to above, there are two other accounts dealing with the coming of the Maryland colonists, the *Relatio Itineris in Marylandiam*, by Father Andrew White, S. J., published with an English translation and edited by Rev. E. A. Dalrymple, S. T. D., in Baltimore, 1874; and *A Relation of Maryland*, reprinted from the London edition of 1635, and edited with notes and an appendix by Francis L. Hawks, New York, 1865.

HISTORIES OF THE SOCIETY OF JESUS

In several histories dealing with the Jesuit Order, material on Cornwaleys was found available. Of these, the best is

that of Thomas Hughes, S. J., *History of the Society of Jesus in North America Colonial and Federal* (2 volumes of *Text* and 2 volumes of *Documents*), New York, 1907-1917. Other works under this category are: Henry Foley, S. J., *Records of the English Province of the Society of Jesus* (Vol. III), London, 1878, and Rev. William P. Treacy, *Old Catholic Maryland and Its Early Jesuit Missionaries*, Swedesboro, N. J., 1889.

BIOGRAPHIES

In studying the extant genealogies of Thomas Cornwaleys, the following works were consulted: Alexander Brown, *The Genesis of the United States*, Boston and New York, 1890; *The Private Correspondence of Jane Lady Cornwallis*, London, 1842; *The Cyclopaedia of American Biography*, New York, 1915; and *Dictionary of National Biography* (Vol. XII), edited by Leslie Stephen, New York, 1887. As noted in the first chapter of this dissertation, the genealogical notices of Thomas Cornwaleys do not appear to us as conclusive.

GENERAL WORKS CONSULTED

George Alsop, *A Character of the Province of Maryland*, reprinted from the original edition of 1666, with introduction and notes by Newton D. Mereness, Cleveland, 1902.—William Hand Browne, *George and Cecilius Calvert Lords Baltimore*, New York, 1890.—*Catholic Record Society*, Vol. VIII, *Miscellanea*, London, 1913.—R. H. Clarke, LL. D., *Bancroft's History of the United States*, in *The Catholic World* (Vols. 38 and 39).—Sanford Cobb, *The Rise of Religious Liberty in America*, New York, 1902.—George Lynn-Lachlan Davis, *The Day-Star of American Freedom or The Birth and Early Growth of Toleration in the Province of Maryland*, New York, 1855.—M. F. Howley, *Ecclesiastical History of Newfoundland*, Boston, 1887.—Edward Ingle, *Captain Richard Ingle, the Maryland Pirate and Rebel*, Baltimore, 1884.—John Johnson, *Old Maryland Manors*, Baltimore, 1883.—John Kilty, *The Land-Holder's Assistant and Land-Office Guide*, Baltimore, 1808.—John H. Latané, *The*

Early Relations between Maryland and Virginia (Johns Hopkins University Studies), Baltimore, March and April, 1895.—R. R. Madden, *The History of the Penal Laws enacted against Roman Catholics*, London, 1847.—Very Rev. V. F. O'Daniel, O. P., S. T. M., *Cuthbert Fenwick—Pioneer Catholic and Legislator of Maryland*, in *The Catholic Historical Review*, Vol. V; and *The Right Rev. Edward Dominic Fenwick, O. P.*, Washington, D. C., 1920.—Beauchamp Plantagenet, *A Description of the Province of New Albion* (printed in 1648), *American Colonial Tracts*, Vol. II, No. 6, Rochester, 1898.—Thomas Wentworth Strafford, *Letters and Dispatches*, edited by Sir George Radcliffe (2 Vols.), London, 1739.—Hester Dorsey Richardson, *Side-Lights on Maryland History*, Baltimore, 1913.—John Gilmary Shea, *History of the Catholic Church in the United States* (Vol. I), New York, 1886; and *Maryland and the Controversies as to her Early History*, in *American Catholic Quarterly Review* (Vol. X), Philadelphia, 1885.—Bernard C. Steiner, Ph. D., *Beginnings of Maryland 1631–1639*, Baltimore, 1903; and *Maryland during English Civil Wars*, Baltimore, 1903.

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